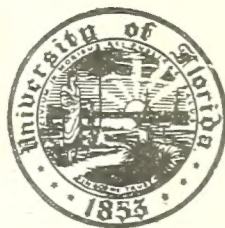






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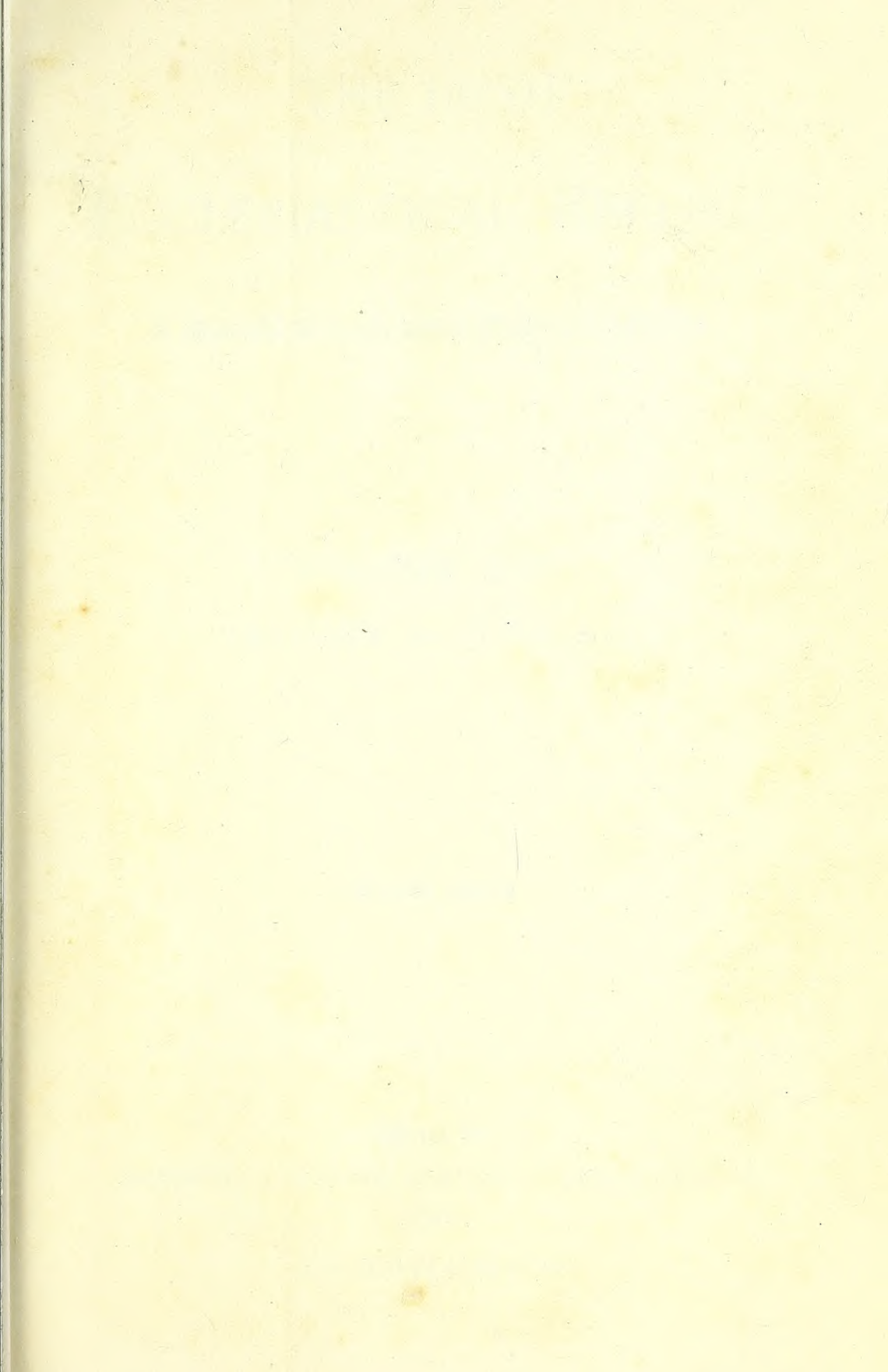
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# THE IRISH ECCLESIASTICAL RECORD

*A Monthly Journal, under Episcopal Sanction*

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## TABLE OF CONTENTS

	PAGE
African Native Prayers. By Rev. Luke Plunkett . . .	225
A Neglected Adverb; or, Prime as Morning Prayer. By Rev. Matthew Russell, S.J. . . . .	476
Ardagh, The Episcopal Succession in. By W. H. Grattan Flood, MUS.D., K.S.G. . . . .	67
Archbishop of Dublin, His Grace the, and the Motu Proprio 'Quantavis Diligentia.' By Rev. M. J. O'Donnell, D.D. . .	388
Augustin, St., The 'Catholicism' of. By Rev. W. B. O'Dowd . .	156
Catholic Church in 1911. By Rev. James MacCaffrey, D.PH., S.T.L.	1
Ceremonies of South Indian Hill Tribes, Some. By Rev. T. F. MacNamara . . . . .	141
Conduct, Probabilism as a subsidiary Guide to. By Rev. John Rickaby, S.J. . . . .	614
Conversion to the Church, Faith and Reason in Relation to. By T. Frederick Willis, B.A. . . . .	265, 365

### Correspondence:—

Conditional Extreme Unction . . . . .	428, 552
Mixed Marriages, Legal Requirements for in Ireland . . . . .	425, 651
Monthly Recollection . . . . .	317
Priests' Eucharistic League . . . . .	656
Repetition of Extreme Unction . . . . .	318

### Documents:—

America, New Bishoprics in—The Bishop of Tarbes and Lourdes (new title) . . . . .	662
Basilica of St. Joseph in Buenos Ayres . . . . .	320
Beatification and Canonization of Benvenuto Bambozzi . . .	321
Case of Nullity of Marriage . . . . .	202
Congregation of the Index Decree . . . . .	327
Decree of Sacred Congregation of Propaganda . . . . .	554
Dispensing a Priest from Irregularity . . . . .	324
Division of Apostolic Prefecture . . . . .	326
Dominicans, Privilege of . . . . .	433
Doubts regarding Third Orders . . . . .	437
Faculties of Bishops in relation to New Breviaries . . . . .	432
Fast, Law of, on Vigil of Feast Days . . . . .	326
Feast of Corpus Christi and others . . . . .	658
Feasts of Double Major with Octave . . . . .	331
Feasts hitherto affixed to Sundays, Certain . . . . .	553
Letter of Cardinal Merry del Val to the Archbishop of Bourges .	323

DOCUMENTS—*continued.*

## PAGE

Letter of Cardinal Merry del Val to Father Janvier, O.P. . . . .	329
Letter of Cardinal Merry del Val to Mgr. Delamaire of Cambrai . . . . .	330
Letter of His Holiness Pope Pius X. to the Bishops of Brazil . . . . .	96
Letter of His Holiness Pope Pius X. to the Archbishop of Caracas . . . . .	211
Letter of His Holiness Pope Pius X. to the Rector of the University of Manila . . . . .	324
Letter of His Holiness Pope Pius X. to Cardinal Amette, Archbishop of Paris . . . . .	435
Letter of His Holiness Pope Pius X. to Cardinal Vaszary, Primate of Hungary . . . . .	436
Letter of His Holiness Pope Pius X. to Father Fiat, General of Vincentians . . . . .	553
Limerick, Revival of Ancient Chapter of . . . . .	434
Modernism, Reports of Bishops regarding . . . . .	436
Pope Pius X. founds Pious Union of First Communion of Boys . . . . .	319
Religious bound to Military Service, Decree regarding . . . . .	438
Rubrics, Decree of New . . . . .	659
Rubrics of Divine Office and Mass . . . . .	192
Rubrics according to Bull 'Divino Afflatu,' Interpretation of . . . . .	441
Simple Feasts having Proper Antiphons . . . . .	443
Society of Procession Boys . . . . .	106
Some Doubts resolved . . . . .	555
St. Patrick's Day—A Holiday of Obligation . . . . .	96
The Doxology . . . . .	331
The New Psalter . . . . .	288
Transferred Pastors . . . . .	99
Various Doubts . . . . .	661
Various Liturgical Doubts resolved . . . . .	434
Warning of Sacred Congregation of Rites . . . . .	332
Education, The Philosophy of Action applied to. By M'Hardy Flint, Esq. . . . .	169
Episcopal Succession in Ardagh, The. By W. H. Grattan Flood, MUS.D., K.S.G. . . . .	67
Extreme Unction and the Last Blessing, Repetition of. By Rev. T. Dunne, C.C. . . . .	113
Faith and Reason in Relation to Conversion to the Church. By T. Frederick Willis, B.A. . . . .	265, 365
France, The Fight for the Faith in the Primary and Secondary Schools of. By Very Rev. J. W. Canon M'Carthy . . . . .	507
Gilds and Trade Unions, Origin and Development of. By Thomas P. O'Nolan, Esq. . . . .	247
Indian Hill Tribes, Some Ceremonies of South. By Rev. T. F. MacNamara . . . . .	141
Irish Marriage Cases, Two Famous. By Most Rev. Dr. Walsh, Archbishop of Dublin . . . . .	449, 570
Litany of Our Lady, A, from <i>Leabhar Breac</i> . By mac eclipse . . . . .	175
Little White Flower, The. Four Poems, in Irish, English, Latin, and Greek, by Thomas P. O'Nolan . . . . .	624



Marriage Cases, Two Famous Irish. By Most Rev. Dr. Walsh, Archbishop of Dublin . . . . .	449, 570
Mr. Wells' Scepticism. By C. Harrison, Esq. . . . .	126
Motu Proprio 'Quantavis Diligentia,' His Grace the Archbishop of Dublin and the. By Rev. M. J. O'Donnell, D.D. . . . .	388

### Notes and Queries:—

#### CANON LAW (By Rev. M. J. O'Donnell, D.D.)—

Armagh Statutes—Obligation under, of saying Mass for person who has died outside parish . . . . .	301, 410
Cemeteries, Blessing of . . . . .	87
Collections, Need of Episcopal permission for . . . . .	418
Dispensation in Irregularities, Application to Roman Con- gregation for . . . . .	417
Funeral Offerings—Recent Armagh Statute . . . . .	410
Incardination, Some Conditions of . . . . .	83
Marriages, Jurisdiction of the Holy Office in regard to certain	642
Mass without a Server, Celebration of . . . . .	641
Parishes, Division of—Canonical Causes required . . . . .	637
Obligation of saying Mass <i>pro populo</i> on Retrenched Holidays	309
Right of Extern Clergy to 'Quarta Pars' . . . . .	306
Suspended or Dismissed Ecclesiastics, Support of . . . . .	535

#### LITURGY (By Rev. T. O'Doherty)—

Benediction and Way of the Cross in Lent . . . . .	316
Breviary and Missal—New Rules of 'Divino Afflatu' . . . . .	180, 310
Constitution 'Divino Afflatu' and New Rubrics for Missal and Breviary . . . . .	180
Candles at Mass and Benediction, Number and Quality of . . . . .	419
Colour of Stole at Benediction after Mass and at Communion <i>extra Missam</i> . . . . .	545
Crozier Indulgence—When it may be gained . . . . .	90
Cumulation of Indulgences . . . . .	314
Intonation of <i>Gloria</i> and <i>Credo</i> at Solemn Mass . . . . .	548
May Communion be given immediately after last Gospel? . . . . .	545
Monstrance—Where should it be placed during Exposition? . . . . .	645
Month's Mind, Proper Nocturn for . . . . .	93
Nocturn—Proper one to be recited on <i>Dies Depositionis</i> and Month's Mind . . . . .	93
Nuptial Mass on Feast of Double Rite, Number of Prayers at	91
Private Exequial Mass <i>pro papae defuncto</i> —May the privilege be extended to others? . . . . .	650
Psaltery, the New, Use <i>ad libitum</i> of . . . . .	419
Responses to Litany of Blessed Virgin . . . . .	314
Tabernacle Veil, The, when the Crucifix stands above the Tabernacle . . . . .	645
'Tempus Praedicandi' . . . . .	424
Washing of Corporals, Palls, Purificators . . . . .	315
What is a Throne? . . . . .	645

NOTES AND QUERIES—*continued.*

PAGE

## THEOLOGY (By Rev. J. M. Harty, D.D.)—

All Souls' Masses . . . . .	76
Bequests for Masses . . . . .	80
Clandestinity . . . . .	296
Clandestinity and Mixed Marriages in Ireland . . . . .	534
Conditional Administration of the Sacraments . . . . .	405
Conditional Extreme Unction . . . . .	634
Condonation of a debt . . . . .	79
Freemasons and other members of condemned societies, Reconciliation of . . . . .	627
Honoraria for Masses on Christmas Day . . . . .	299
'If Holy Church will it permit' . . . . .	400
Is the Sin greater by being committed on the Lord's Day? . . . . .	299
Marriage-Ceremony, The Essence of . . . . .	528
Non-fasting Communion . . . . .	404
Secret Marriages and Registration . . . . .	533
Sponsalia . . . . .	79
St. Patrick's Day . . . . .	295

## NOTICES OF BOOKS:—

Allegorie des Hohen Liedes, 559; A Larger Catechism of the Christian Doctrine, 444; Bible and Biblical Literature, Practical Handbook, for the study of the, 671; Dueteronomy, Date of Composition of, 109; Enchiridion Patristicum, 108; Gadelica, A Journal of Modern Studies, 556; *Συτὸν ὁν μὲρ ἑστέα*, 335; Horae Semiticae, 110; Kirchliches Handlexicon, 334; *ἱερὴ λέξις μνηστῆρας*, 557; L'Eglise de Paris et la Révolution, 224; *λέξις καὶ λαοί*, 558; Lehrbuch der Dogmatik, 669; Les Discours de Jesus sur la Montagne, 559; Lexicon Biblicum, 110; Life of John Henry Newman, 215; Logic, The Science of, 664; Onomasticon Goedelicum, 111; Rudimenta Linguae Hebraicae, 223; St. Paul V., Pope of the Holy Rosary, 220; Studies—An Irish Quarterly Review, 445; Summa Philosophiae Scholasticae—Ethica, 664; The Carlovian, 668; The Catholic Encyclopedia, Vol. xii., 333; The Eve of Catholic Emancipation, 221; The Price of Unity, 447;

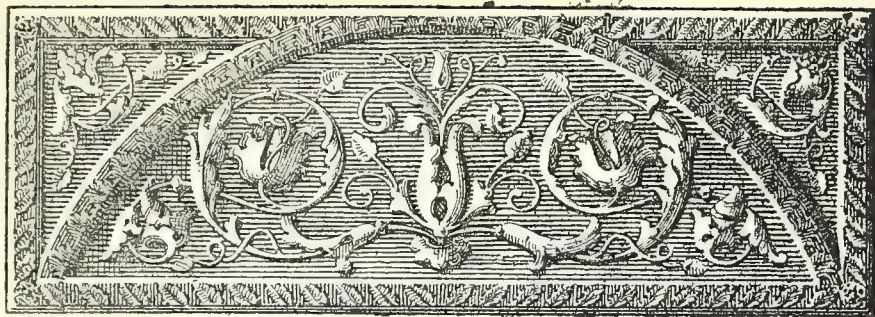
Novelist's Sermons, A. By 'John Ayscough' . . . . .	16, 285, 356, 606
Our Lady, A Litany of, from <i>Leabhar Breac</i> . By mac eolair . . . . .	175
Philosophy of Action applied to Education. By M'Hardy Flint, Esq. . . . .	169
Pragmatism. By Rev. D. O'Keeffe . . . . .	562
Prayers, African Native. By Rev. Luke Plunkett . . . . .	225
Prime as Morning Prayer. By Rev. Matthew Russell, S.J. . . . .	476
Probabilism as a subsidiary Guide to Conduct. By Rev. John Rickaby, S.J. . . . .	614
Repetition of Extreme Unction and the Last Blessing. By Rev. T. Dunne, C.C. . . . .	113



	PAGE
St. Augustin, The 'Catholicism' of. By Rev. W. B. O'Dowd . . .	156
Scepticism, Mr. Wells'. By C. Harrison, Esq. . . . .	126
Sermons, A Novelist's. By 'John Ayscough' . . . 16, 285, 356, 606	16, 285, 356, 606
Socialism and Taxation. By Very Rev. J. F. Hogan, D.D. . .	337
Spiritualism and the Spirit World. By Rev. P. J. Manly, C.C. . .	508
State Socialism. By Very Rev. J. F. Hogan, D.D. . . .	28
Taxation, Socialism and. By Very Rev. J. F. Hogan, D.D. . .	337
The Catholic Church in 1911. By Rev. James MacCaffrey, D.P.H., S.T.L. . . . .	I
The Fight for the Faith in the Primary and Secondary Schools of France. By Very Rev. J. W. Canon M'Carthy . . .	489
Trades Unions and Gilds, Origin and Development of. By Thomas P. O'Nolan, Esq. . . . .	247
Two Famous Irish Marriage Cases. By Most Rev. Dr. Walsh, Archbishop of Dublin . . . . .	449
Utilitarianism. By Rev. John Rickaby, S.J. . . . .	45







## THE CATHOLIC CHURCH IN 1911

**P**OSSIBLY the destruction of the power of the House of Lords in England will be the event of the year that is likely to make the greatest impression on the historian of the future. Despite its hereditary privileges and the clamours of democracy the House of Lords boldly maintained its rights, confident of the support of a large majority of the English people, who, until recently at any rate, regarded it as one of the mainstays of the English Constitution. Twenty years ago, when Gladstone with all his personal magnetism and popularity ventured to point a warning finger at the Lords and to denounce their privileges as a menace to liberty and progress, he found himself deserted by his colleagues and by the country, and was forced into retirement a disappointed man. Even amongst leading statesmen he was regarded at the time as a visionary and enthusiast who was willing to sacrifice his position and his party in a forlorn hope against a fortress that stood impregnable. But where Gladstone failed and failed ignominiously, the present Liberal Party under the leadership of Mr. Asquith has succeeded. Twenty years, especially twenty years during which the House of Lords has been the steady all of the Conservatives, have effected a great change in popular opinion. All parties were agreed that some reform of the Upper Chamber was desirable; but the nature and extent of this reform were not so easily determined. The Liberals

have solved the difficulty for the present by abolishing the absolute veto of the Lords and substituting for it a suspensive veto. In the future, then, the Lords may delay a measure for the statutory time but they cannot reject it.

The French expedition to Fez and the despatch of a German war vessel to the harbour of Agadir were regarded by many as the heralds of the long-expected struggle that is to decide the supremacy of Europe. Fortunately, however, the difficulties that arose did not prove too great for the resources of diplomacy and the peace of Europe has been maintained. France receives from Germany a free hand in Morocco, while Germany gets in exchange for this concession a large slice of the Congo. But though all parties profess themselves highly pleased with the result, the recent speeches of the English Foreign Secretary and the German Chancellor are clear indications that unless England and Germany change their policy and their attitude the possibility of a conflict has not been eliminated. While France and Germany were squabbling about Morocco, Italy determined to secure a foothold in North Africa before the whole coast of the Mediterranean had been occupied by others. Tripoli was selected as the most convenient landing place, and before the Italian fleet sailed a polite note was sent to the Sultan to prepare him for the visit. The latter, who had been amusing himself during the summer with the slaughter of defenceless Christians in the Balkans, was stunned by the suddenness of this announcement, but as the Italian fleet lay between Constantinople and Tripoli very little could be done for the reception of the visitors, and he could only hope for the best. The Italians arrived safely, at least so they wrote home, and have fought since then several decisive engagements, but they are likely to fight many more before their power is secured in Tripoli. Before setting out on this expedition they should have remembered the reception which they met on the last occasion they went visiting in Africa at the hands of Menelik of Abyssinia, and should have laid more stress on the great staying power of the Sultan.

In Rome the position of the Holy Father was rendered particularly painful by the great celebrations organized in

honour of the Jubilee of United Italy. It is a pity that some of the Italian statesmen have not sufficient prudence and foresight to recognize that instead of permitting the Pope to be insulted by men of the stamp of the Mayor of Rome it would be much better for all parties to remove the greatest menace to union and the greatest weakness in modern Italy, namely, the want of some understanding in regard to the independence of the Pope that would be satisfactory to the Catholic world. Every preparation was made to attract visitors to the capital during the centenary celebrations, but the complete failure of these efforts ought to help their organizers to realize that the Vatican holds the great inducement to draw pilgrims to Rome, and that when it was announced that the doors of the Vatican would be closed against all official guests of Italy comparatively few cared to undertake the journey. All kinds of misfortunes seem to have attended the celebrations. The Exhibition buildings were not ready in time, the Municipal Council of Rome announced its intention of resigning unless the Government came to its aid in its financial difficulties, the tram conductors made preparations for a general strike, the foreign rulers, whose coming was duly heralded in all the papers, found some excuse or another for staying at home; and last, and worst of all, the cholera, which had been ravaging Italy during the summer, made its appearance in Rome itself as if to complete the bankruptcy of those who had speculated upon the success of the Exhibition.

Alarming rumours were spread several times during the year regarding the health of the Pope, but if we are to judge his health by his activity the prophets who predicted a nine years' reign may look to their laurels. The conflict with the new Government of Portugal, the difficulties between Spain and the Holy See in regard to the Law of Associations, the warm controversies that sprang up between certain sections of the German Catholics, and which might have proved serious in view of the impending general election and the various developments in political and educational circles in Italy, made serious claims upon the attention of Pius X. and his energetic Secretary of State. In purely



ecclesiastical affairs possibly the most important document issued during the year was the *Motu Proprio* in regard to holidays of obligation. For the future the holidays to be observed by the faithful are the Nativity, Circumcision, Epiphany and the Ascension, the Assumption of the Blessed Virgin and the Feast of the Immaculate Conception, wherever it has been observed hitherto, the Feast of SS. Peter and Paul and All Souls' Day. The feasts of local patrons are no longer obligatory unless the Bishops wish to retain them, and in that case the Holy See will accede to their wishes. It has been officially announced already that the Pope has acceded to the request of the Irish Bishops in regard to the retention of St. Patrick's Day as a holiday of obligation in Ireland.

Sixty-two Cardinals took part in the proceedings of the last conclave and two others found it impossible to be present. Since that time a very large number of these Cardinals have been removed by death, and Pius X. created only seventeen since his elevation to the Papacy. Many of those appointed by him were not resident in Rome, and hence there was hardly a sufficient number of Cardinals in Curia to man the various Congregations. In these circumstances speculation was rife as to the motive for the unusual delay in holding a consistory for the proclamation of new Cardinals. Some sought for the trouble in Lisbon, others in Vienna, while not a few were inclined to attribute the delay to the straitened financial condition of the Holy See. But whatever may have been the cause the Consistory has now been held, and thirteen Cardinals have been proclaimed. It was a great pleasure to Catholics of these countries to learn that the Archbishops of Westminster, New York, and Boston were among those on whom the Pope was to confer this distinguished honour.

Since the death of Cardinal Vaughan, England has had no representative among the Princes of the Church. It was felt by many that a successor to the late Cardinal should be appointed and that no man was better qualified to fill this office than the distinguished ecclesiastic who had succeeded him in the See of Westminster. As Bishop of Southwark

Dr. Bourne had proved himself an able and energetic administrator, and since his appointment to Westminster he has maintained worthily the high traditions that had been handed down to him by his illustrious predecessors. Keeping steadily before his mind the welfare of religion and the spiritual interests of the Catholics in England he has stood above politics and parties, friendly wherever friendship meant no abandonment of principles and never offensive even when forced to disagree. Called to office at a time when the question of education was the great bone of contention between the political parties and when the very existence of the Catholic schools was gravely imperilled, he found the Catholics of England divided as to the best means of defence ; but by his tactful handling of the situation he managed to disentangle the problem of the schools from the maze of politics with which it was surrounded, and by doing so he welded the Catholics of England into one solid body, secured the co-operation of the Irish Party and secured a measure of success that was surprising alike to both friends and foes of the Catholic cause. Nor can Catholics soon forget the prudence and tact which he displayed in the critical situation that arose consequent on the prohibition of the procession during the Eucharistic Congress. His correspondence with the Prime Minister might serve as a model for the ablest diplomatists, and the dignity, moderation and firmness of his protest in the Albert Hall helped to convert an apparent defeat into an overwhelming victory.

The news that the Holy Father had included in the list of promotions the Archbishop of New York, the Archbishop of Boston and Mgr. Falconio, Apostolic Delegate at Washington, roused the enthusiasm of the Catholics of America, and was regarded as a signal honour done to their country even by the non-Catholic body. Everybody acquainted with the position of the Church in the United States will readily admit that it was high time that the Catholics of that country should receive due representation in the Councils of the Pope. By their numbers, their organization, their devotion to the Holy See, their generous sacrifices for religion, and more especially for education,

and by their readiness to assist the cause of religion in every land no matter by whom that cause was pleaded they have shown that the best type of Catholicity is not opposed to democracy and liberty and progress, and they have set an example which some of the more highly favoured nations in the Old World might profitably imitate.

By his personal qualifications and by his position as Archbishop of New York, Dr. Farley was acknowledged by all to have the first claims whenever the question of appointing American Cardinals should arise. Born in Ireland, educated in St. Macarten's Seminary, Monaghan, and in the American College at Rome, he entered on his duties in New York as Secretary to Cardinal M'Closkey. Under this gifted ruler he had a splendid opportunity of becoming acquainted with the affairs of New York and of appreciating at first hand the justice and prudence which distinguished the administration of America's first Cardinal. Later on he was appointed pastor of the flourishing parish of St. Gabriel's, assistant Bishop of New York, and on the death of Archbishop Corrigan he was called upon to take charge of the destinies of the vacant See. His diocese is from the point of view of population one of the largest in the world, and from the point of view of the variety of races and nationalities from which that population is drawn it stands unique. The work of administering such a diocese and of providing churches and schools and hospitals and charitable institutions was an exceedingly trying one, but the new Archbishop proved himself fully equal to all the demands that were made upon his administrative powers ; and backed by the support and generosity of both clergy and people he has provided New York with a system of unrivalled Catholic institutions, at the head of which must be placed the College of Dunwoodie, in the success of which Dr. Farley is specially interested.

The career of the Archbishop of Boston is well known both in Europe and in the United States. His appointment as Cardinal came upon nobody as a surprise. In his own diocese and outside it he is commonly recognized to be a man of untiring energy and determination, in whose vocabulary



the word 'cannot' finds no place, and we are confident that he will make his presence felt in the councils of the Universal Church. Ireland joins with America in congratulating the new American Cardinals and in praying that they may be spared for many years to further the cause of religion in their dioceses and throughout the United States.

In France the situation is but slightly changed. M. Briand was forced to resign his office as first Minister of the Republic in order to make way for a man more pleasing to the members of the Extreme Left. The principal crimes laid to his charge were his too conciliatory attitude towards the religious Orders, especially towards those engaged in education, and the boldness of his methods in his attack on Syndicalism. For many this latter word is a serious puzzle. They find it used frequently by public speakers in dealing with labour troubles nearer home, and they are not quite certain about the meaning they should attach to it. Syndicalism is nothing more or less than the theory of those who maintain that all classes of employees, skilled or unskilled, clerks or labourers, public officials or workmen attached to individual concerns, should be organized into one immense association, so as to terrorize both capital and governments and bring the public life of a country to a standstill in case their demands are not conceded. Such a combination is evidently a menace to the public weal, and should be opposed by the executive of any well-administered State. This was the view taken by M. Briand, himself an old companion in arms of the Socialist Party, and for this desertion of his former allies he drew upon himself the ire of the Radicals of France.

Again, he was supposed to be too lenient in his treatment of the religious Orders and in his attitude towards the Catholic schools. The campaign that was carried on in France against the religious bodies was in reality a campaign to capture the whole educational machinery of France. The Catholic schools were manned to a great extent by members of the various Orders and Congregations, and it was thought that if they were expelled the Catholic schools could not subsist and the youth of France would be obliged to

seek education in neutral institutions provided for them by the Government. But to the amazement of everybody the schools have not disappeared, and if we are to judge by recent statistics there is every likelihood that they will soon be in as flourishing condition as they were before the execution of the Law of Associations. In Paris alone there are now 107 parochial schools for boys, 115 schools for girls, with a teaching staff of nearly 1,100, and with an average attendance of over 500,000 pupils. In addition, training colleges have been established to provide qualified teachers for Paris and the surrounding dioceses. The entire annual cost, amounting to nearly 7,000,000 francs, is freely borne by the Catholics of the capital. What is true of Paris is true also of many other districts in France, and as a result it is being felt by the anti-religious party that their campaign against the religious has not secured its object so long as the Church still maintains its hold upon the training of so many of the rising generation. In face of the dangers which threatened France internally and externally M. Briand advocated a policy of peace and conciliation that was distasteful to his supporters. He was driven from office, and since the advent of M. Caillaux as first Minister of France the long-threatened measures for the defence and encouragement of the neutral schools are being pushed forward with renewed vigour.

In Germany various attempts were made to stir up controversies and dissensions among the Catholic Party. The first trouble arose in connexion with the oath against Modernism which was to be taken by professors and priests engaged in the care of souls. The professors in the Theological faculties of Germany were regarded as officials belonging to State institutions and were exempted by the Pope from the obligation of taking this oath. It was hinted by many that if this had not been done a very large percentage of the professors would have refused to comply, and that a very serious situation might have arisen between the Empire and the Holy See. A large number of the professors warmly resisted such an imputation, and to prove the sincerity of their protests they refused to take advantage of

the exemption that had been made in their favour and volunteered to accept the anti-Modernist declaration. Such a profession of loyalty to the Church roused the ire of the Liberals of Germany and gave a new impulse to the agitation that has been carried on so long for the exclusion of the theological faculties from the Universities of Germany. In justification of this step it was asserted that the acceptance of such a formula destroyed all possibility of independent investigation and made it impossible for a man to be other than unscientific. In the campaign that aroused such excitement in educated circles of Germany the Lutheran ministers took a prominent part, oblivious of the fact that in some of the Protestant faculties of theology the professors are obliged to profess their allegiance to certain formulas, and that at the very time the agitation was being carried on against the obscurantism of the Catholic Church the Supreme Ecclesiastical Council of Berlin was taking steps to deprive a rector in Cologne of his office because he did not believe up to their standard of orthodoxy.

The organization of the Catholic working-men of Germany was the occasion of a new controversy among the Catholics themselves. In some places the workmen are banded together in purely Catholic labour unions ; in other districts Catholics and Protestants have joined together in Christian organizations for mutual defence against the inroads of Socialism. Some Catholics maintained that this latter form of organization was dangerous and out of harmony with the spirit of the Church, and that purely Catholic organizations should be introduced into every portion of Germany. The controversy was carried on warmly by both sides, who in turn invoked the authority of Rome in favour of their contention. But the position of Rome was finally made clear in the pastoral letter issued by the Cardinal Archbishop of Cologne after his return from a personal interview with Pius X. According to his decision, wherever purely Catholic unions were in existence these unions should be maintained, and wherever mixed organizations prevailed these mixed organizations need not be interfered with, but at the same time, by means of religious sodalities and



confraternities steps should be taken to keep the Catholic members of such associations banded together and well in touch with Catholic principles on social questions.

Again, bitter attacks were made upon the Centre Party from many, and some of them unexpected, quarters. It was said that the Party founded mainly for the defence of the Church in Germany had deviated from the line of conduct traced out for it by its founders and that it had become a purely political party. In proof of this comparisons were instituted between its official programme at present and its programme published, say, in 1886, and it was pointed out that whereas in former times religious questions occupied the most prominent place, at present religion is practically speaking eliminated. But the men who put forward such charges seem to forget that the Centre Party, even in the days of Windthorst and the *Kulturkampf*, never professed to be a purely religious party, and that the difference between its programme then and now is due entirely to the difference in the position of the Catholic Church within the German Empire. Most of the grievances which demanded a place in the programme of the Party have disappeared, and with their disappearance the Centre has more opportunity of emphasizing Christian and Catholic principles in the various political, social and economic problems that demand solution. It is only to be hoped that these attacks and divisions will not injure the Centre Party in the General Election that is impending, and that it will return to the Reichstag as it stood at the dissolution, the strongest political party in the Empire.

In Holland and Belgium very little new demands to be chronicled. The union of the Catholics with the Conservatives in Holland, and the fact that the Catholic Party holds the balance of power, are strong guarantees for the protection of the Church. As a proof of the strong position of the Catholics we might point to the flourishing condition of Catholic primary and secondary schools, supported as they are by State endowment, to the existence of close on 150 newspapers and magazines controlled by Catholic management, to the presence of 16 Catholics among the 50

members of the Upper Chamber, and 25 Catholics out of 100 in the Lower House, and to the fact that three out of the nine Cabinet Ministers are drawn from the Catholic Party. In Belgium the Education Bill introduced by M. Schollaert and his colleagues has led to a change of ministry, and was within an inch of overthrowing the Catholic administration that has ruled Belgium since 1884. In order to remove the disability of which the Catholics complained and at the same time to meet the clamours of the Socialist-Liberal Party, M. Schollaert proposed that education should be free and compulsory on all under the age of fourteen, and that the training given in the schools should be of a practical kind suited to the wants of the particular community. He proposed also to give to each father of a family a ticket which would entitle the school to draw the school fees allowed for the education of his children, and left to the father full freedom in his selection of the school. If the parent wished, therefore, for a religious education for his children he could support the Catholic school; if he desired a merely secular education he could support the secularist school. In many ways this was a very fair proposal, but as it interfered with the rights of the local elected bodies who now control primary education it was distasteful to many, who see in the control of the communes, bad as it is, a safeguard against the aggression of the central government in case the Liberal-Socialist Party were returned to power. After the introduction of the Bill it was referred to the various committees provided for in the standing rules of the Belgium Chamber, but as these committees are selected by lot, and as the majority of the Catholics is exceedingly narrow, it happened that on some of these committees the Liberals and Socialists had a majority. As a result they refused to report in favour of the measure, and to prevent the Bill from being blocked by this refusal M. Schollaert proposed that it should be referred to a committee of the whole house. This motion was defeated owing to the refusal of some of the Catholic deputies to follow their leader. M. Schollaert promptly handed in his resignation, which was accepted, and to M. de Brocqueville was

committed the task of forming a new government. For so far he has succeeded, but the education question remains in its unsatisfactory condition and the result of the election next May is exceedingly doubtful.

In Portugal and Spain the condition of affairs remains practically unchanged. The result of the elections—if one could speak of elections in Portugal—was a foregone conclusion. Every precaution was taken that none but supporters of the present regime could be returned. But the constant disturbance, even in Lisbon itself, the well-known attachment of the northern provinces to the Royalist cause, and the extraordinary precautions taken by the Government against rebellion, seem to point to the fact that the Republic is not yet secure in the possession of power. The Bishops have made a dignified stand against the unjust provisions of the Law of Separation, and the Bishops are supported by the Holy See and by a large majority of the clergy under their control. It looks as if the new President were inclined to arrive at a compromise by abolishing some of the more outrageous provisions of the Law to which the ecclesiastical authorities rightly object. In Spain the difficulties existing between the Government and the Vatican have not been solved. Rome maintains that the Associations Law and the edict of toleration are violations of the Concordat, and that until the binding force of this agreement is recognized negotiations are impossible; Senhor Canalejas and his associates contend, on the other hand, that these affairs are of purely domestic concern and that Spain has the right to transact its own business in its own peculiar way. Whatever may be the upshot it cannot but have been a source of pleasure to the Pope and to Catholics throughout the world to witness the religious enthusiasm displayed by the whole Spanish nation on the occasion of the celebration of the Eucharistic Congress in Madrid. All parties, King Alfonso, the Prime Minister, the Liberals, the Conservatives, the Carlists, and the Legitimists forgot their quarrels for a season and joined hands to do honour to Jesus in the Blessed Sacrament with as much enthusiasm as might have been expected in the days of Ferdinand or



of Charles V. Such a display, proving as it does the deep religious devotion of the Spanish people, ought to have a good effect in softening the acerbity of controversies and of restoring peace between the Government of Spain and the Head of the Catholic Church.

In the United States the event that occupied most attention in Catholic circles, and which afforded the strongest proof of the position of the Church, even in the eyes of the non-Catholics of the Republic, was the great celebration held in Baltimore in honour of the Jubilee of its aged Archbishop, Cardinal Gibbons. In June the Golden Jubilee of his priesthood and the Silver Jubilee of his episcopate in Baltimore brought together a distinguished assembly, including President Taft, Vice-President Sherman, ex-President Roosevelt, the Chief Justice of the United States, the Speaker of the House of Representatives, the Governor of Maryland, and the Mayor of Baltimore. The presence of these men on the same platform with the leading ecclesiastics and Catholic laymen of the States, and the tone of the speeches that were made by them on the occasion, afford a powerful evidence of the progress that the Church has made in the States since the days when 'Know Nothingism' was the order of the day, and when Catholics were denounced as traitors to the Republic, enemies of liberty and opponents of all that was best in the institutions of America. We are glad to note that in the movement to do honour to the Cardinal the Catholic University in which his highest hopes are centred was not forgotten, and that in the celebration held in September the Rector of the University was able to announce that the proposal to build a new hall at the University as the gift of the Catholics of America to the Cardinal on the celebration of his Jubilee had met with an enthusiastic and triumphant response.

The news of the death of Cardinal Moran that was flashed throughout the world in last August was a source of sorrow not alone to his co-religionists of Australia and of Ireland, but to the entire Catholic body. As a historian who had done so much for the elucidation of the history of his native land, as a Bishop ever ready to defend the religious and

educational rights of the Catholics and to champion the cause of the weak against tyranny in whatsoever form, as a Cardinal distinguished for his broad-minded appreciation of modern institutions and movements, he was admired by his co-religionists and esteemed even by those who had little sympathy with his religious convictions. It was particularly sad that he should have been called away before having finished St. Mary's Cathedral, for which he and the Catholics of Sydney had made so many sacrifices and on the completion of which he had set his heart. He is gone, but his memory will not be soon forgotten by those with whom he was associated in the bonds of a common religion, or even by those who had the misfortune to draw upon them his ire by attacking what was dear to him as a Prince of the Church in Australia or as a devoted son of Ireland.

In England the recent regulations imposed by the Board of Education on secondary schools, and aiming as they do either to deprive these schools of their Catholic character or of their endowment, have been the cause of widespread dissatisfaction amongst the Catholic body. These rules did not attract the attention that they deserved because they were not embodied in any Act of Parliament. They are purely arbitrary enactments of the education authorities, but unless they are abolished or modified they are likely to prove dangerous to the existence of the Catholic secondary schools and to the continued supply of trained Catholic teachers. This year the English Catholic Congress was held at Newcastle and was a striking success. The variety of the papers read on the occasion dealing with the most pressing modern religious, social and educational problems was a clear proof that the leaders of the Catholics of England are keeping a close eye on modern developments, and that they are determined that their co-religionists shall be well organized and well instructed so as to be able to do the right thing in the right way and at the proper time whenever, if ever, the rights of religion shall be threatened.

In Ireland, during the early months of the year, the '*Ne Temere* Decree,' 'Papal aggression,' and 'Mrs. M'Cann' seemed to be in the air. In the newspapers and the magazines,

inside and outside of railway carriages, on the top of the trams in Dublin and Belfast, at the dinner-table of public hotels, these things were constantly turning up, and if one were tempted to seek protection in the sanctity of one's own room some echo of the babble raging outside was sure to disturb one's peaceful meditations. Sane men of all parties feared that with the approach of the hot weather the danger of infection might be notably increased, but for once, in spite of the exceptionally good summer, these expectations were disappointed, the nuisance gradually disappeared and Ireland north and south of the Boyne was enabled to breathe more freely.

Far more important, both from the religious and economic point of view, were the Labour troubles, culminating in two general strikes on the Irish railways. These strikes inflicted a great loss on the country as a whole, and brought into prominence the fact which was startling for many that Ireland has a labour problem of its own which requires solution, and is likely also soon to have a Socialist group of its own compensating themselves for the smallness of their numbers by the extreme violence of their theories. Bad as were these strikes they will have done much good if they force people to realize the gravity of the situation and to devise ways and means by which a solution may be found.

JAMES MACCAFFREY.



## A NOVELIST'S SERMON

I N rhetoric, parallels are a numerous family ; but they are in reality short-lived. The lines soon diverge in one direction, and they run back into mere identity of cause. So that, however interesting a seeming parallel may appear it is not to be pressed too far. With such limitations in mind it would seem that there might be some interest, and even some use, in considering a parallel between the position of Catholics in England now, and that of Christians in the Roman Empire during the age following that of Constantine.

For a period roughly corresponding the Christian Church before the official conversion of the Empire, and the Catholic Church in England after the Reformation, were much in the same position. During the first three centuries of her history the new religion of Christ in Rome was under a more or less rigorous discipline of repression ; for about three hundred years after the Reformation the old religion of Christ in England existed under analogous, though not identical, conditions of varying but distinct repression.

No one supposes that the Christians of those first three centuries lived in a chronic state of acute persecution ; but their position was always illegal, and from time to time the laws, for longer or shorter intervals tacitly ignored and disregarded, were put in force, and then came outbursts of furious storm. The last of these occurred during the lifetime of the Emperor whose official conversion was to secure freedom of worship for the professors of a faith which had existed for a long time under protest, though before he had arrived at his final complete sovereignty and independence.

The Romans were not by disposition a more intolerant people than the English : like the English they were much disposed to regard the religion of which the Pope was the visible head with a somewhat scornful wonder, as an unaccountable weakness and eccentricity in its professors ;

but they did not all refuse to those who had the misfortune to be addicted to it a measure of half-puzzled respect, grounded chiefly on their obvious earnestness and sincerity ; nor did they forget that among these were many families of ancient lineage and illustrious name. This latter consideration had perhaps as much weight as the other, for the Romans, whether imperialists or republicans, were at heart a conservative people like the English.

Such unpopularity, on the other hand, as the followers of the Pope laboured under was due in the Roman empire to much the same causes as have been the ground of it in England. First of all, they were twitted as believers in a foreign cult ; and the Romans of the Empire, almost as ready as the English to make much of the wrong foreigners, thought that Romans should be content with the religion of the State. Then the head of this faith, alien in its origin, need not be, and often had not been, a Roman : there had been Hebrew, Greek, Asiatic, and African Popes. The patriotic Roman's national *amour propre* was offended at the notion of subjection, even in spiritual matters, to a pontiff who might be a foreigner : to tell the truth, he could not grasp the idea of a subjection that concerned only the spiritual world, for that world was beyond the scope of his imagination. His mind was positive and 'practical' ; he could hardly believe in an invisible kingdom, and suspected there must be more in it than met the ear. When Christ, not disclaiming His kingship, said, ' My kingdom is not of this world,' Pilate was puzzled, and pressed Him again.

Again, the Roman conception of useful religion was altogether national, whereas the religion of the Pope's spiritual subjects was the reverse of national : its claim to be Catholic, universal, made it international, unpatriotic and objectionable. To the Roman it appeared obvious that the logic of such a claim was opposed to patriotism, for it suggested an authority higher than the State, outside it, and not subject to it, as it also suggested a sort of confederation, independent of the State, and not even confined to those who were within the vast pale of the Empire. All

this made it seem that the Pope and his Christians, even when Romans, must aim at being something else as well. The Roman mind, no more than the English, could grasp the idea of sincere loyalty to the State among people who had to admit that there was a law higher than that of any temporal lawgiver. They did not choose to remember that there had been occasions when Romans, and heathen Romans too, had risen against the lawgiver of the moment, and that those men had ever since been acclaimed as national heroes.

Another count in the indictment was that the faith of those whose supreme representative was the Pope was itself intolerant. Its claim was exclusive ; it did not confess that other religions might be as good ; it refused to allow its followers to take part in the public offices of the State religion ; regarding such a compliance as treasonable to itself, it was itself regarded as treasonable. It maintained that there could be only one God, and consequently only one Truth, which was surly and discourteous, as the fact was notorious that many gods were publicly recognized, and truth was not commonly supposed to be actually discoverable anywhere. Those of their fellow-citizens who professed this or that cult (many of which cults were as foreign in Rome as Christian Science is in England) had no vehement, much less exclusive, addiction to their own particular form of worship, and were far from laying any surly claim to infallibility in their teachers. Your Mithraite had no objection on seasonable occasions to frequenting the Iseum : the cult of Isis and the cult of Mithra were both tolerated by the State and professed by persons of consideration in society.

What was intolerable in the Pope, and his absurdly subservient followers, was their arrogant, unfriendly claim to a special exclusive possession of truth, resting on a superstitious pretence of a direct, exclusive revelation. This sour attitude showed itself not only in a rigorous abstention from the religious worship of their neighbours, but in a marked shyness to admit to the celebration of their own sacred mysteries those who happened not to revere them,



but who would have been quite willing to be present as spectators, out of curiosity. This was superstitious and probably worse. There must be something to conceal, and so the wildest theories flew about to account for it. In such a religion there must be more than appeared on the surface ; something discreditable to conceal.

Finally, the fruits of the religion were disagreeable, and trees are known by their fruit. To start with : the Pope's faith encouraged enthusiasm ; it went too far. It was notorious that many Christians of high rank had sold estates, palaces, jewels, statues, heirlooms, and beggared themselves to found churches or to feed the poor. Others had flung up positions of eminence to become priests or monks.

Comparisons were already odious ; and this sort of behaviour has always been offensive to those whose own is diametrically opposed to it. ' Suppose my daughter should turn Christian,' says Tullius, ' and become a nun, instead of marrying the wealthy Lucullus ! ' ' Suppose my son,' cries Licius, ' should get this Christian maggot in his head, and become a priest, like a slave's son, whereas, with his influence and his talents, he might one day be City Prefect ! There'd be an end of the glories of a family that was famous three centuries ago, and has been pretty wealthy ever since.' Why, the young Licius might turn out a saint, or even a martyr. And in good families saints and martyrs must be as intolerable as sheer vulgarity. To the well-regulated, prosperous, Roman mind sanctity and martyrdom must have seemed as tiresome and uneasy as to that of the eighteenth-century Englishman.

The Roman noble of the Empire, whose uncle may have been a Proconsul in Egypt, had heard of the Fathers of the desert, and knew that those enthusiasts never entered a bath, or cut their hair, or ate any reasonable human food. He might himself have seen the martyrdom of this perverse and obstinate Christian or that, and it put him beyond his patience.

Have you ever sat alone, on a windless night, in the Coliseum, and thought of the thoughts of such as sat in

your place there seventeen or eighteen hundred years before you? Of some well-dressed, well-read, well-fed Roman gentleman, of no particular belief himself—easy, tolerant, not ill-natured, nor specially savage, with a confidence that all which is is for the best, placidly patriotic, proud of his country and fond of its customs, with a layman's mild satisfaction in a national religion that never in his life had interfered with him, that had never snatched one pleasure out of his hands, or scolded him, or asked him to confess his decorous sins, or suggested to him that he should be different; a religion with centuries of opulent consideration behind it, splendid in its monuments, satisfactory in its calm, slightly obsolete, ritual; a religion in which he had been born and bred, and his fathers before him, which he loved for that reason rather than for itself—well, well! perhaps he too had *believed* in it once, as an unthinking child open to large impressions; in those unreturning days he had watched the sacrifice, and listened to the half-comprehended words with a sense that they, somehow, lifted him, that they were a mysterious link with a touching, greater past. And the huge amphitheatre is filled, the awning is overhead; it is staring afternoon, but the rude sun cannot tease emperor nor court, vestal college, nor all the dignity of Rome, the world's calm mistress.

Then the arena fills too. The athletes are down below: they bend before the supreme figure of earthly rule, 'Morituri, Cæsar, te salutant.' Not all slaves, nor barbarian captives: yonder a fine Roman face, a graceful Roman form, familiar features of a patrician house identified with a name as old as the Republic. Why is he here? What brings *him* as food for the lion's mouth? A fancy, an exotic superstition—yet he too dies: no alien, no criminal, no spoil of ruthless war; and in him his glorious race expires, the fabled name becomes extinct—because he will not drop one sweet grain of incense on the throbbing, pitiful heart of red charcoal before the little ivory or bronze Jove that cares not one whit whether he drop it or no!

Can you not picture the anger of such a Roman gentleman? Ah, the pity of it, the waste! What a faith, that

leads its luckless children to such insensate end ! How he hates martyrdoms and the religion that has been the prolific mother of martyrs. The very martyrs themselves insult him, and are a sting and a reproach. Cannot a plain man live all his allotted length of days, and cover his head in his toga when the fated hour strikes, bow down aghast, but without vulgar outcry, to the Inexorable Messenger when he comes, without rushing like a fool, midway, to meet him ?

Must not such a pleasant gentleman have loathed the religion that led its hapless children along so thorny a path ? The faith that knocked aside the sweet, sweet cup of life, carven about with lovely brede of tender flower and laughing faun—the faith that cried : ‘ Poison in the cup. Dash it down ! ’ when the wine within it was so dancing sweet, filling the veins with laughter, and the eyes with lovely images.

Poor kindly gentleman : he saw no one greater than the martyr standing behind him ; had never learned the austere tongue that speaks of happiness in pain, glory in shame, a light invisible beyond these chilling mists of falling darkness. With all the sincerity at his conventional command he hated this foreign, unfriendly, tyrannical, agonizing faith that flung its loveliest, noblest children to the lion’s mouth.

Half-sick, all angry, when all was over he strolled away to his pleasant, opulent home, or was carried thither, perhaps not immediately forgetting the tragedy just seen : remembering it, may be, as he lolled beside his lavish table with wife and son and daughter : they too *might* turn Christian, and for them the shame of the arena, the agony of that horrible death. Let the easy, faulty gods forbid ! the old comfortable gods of the old comfortable religion that asked only sacrifices not sacrifice. . . . But these times came to their end at last : after Diocletian’s there was no great persecution, only a hurried interlude of it during Julian’s short gasp of a reign, when in Rome few martyrs were added to the list.

The old laws against the faith of the Pope’s followers



had been repealed ; the Church had emerged from the catacombs for good, and the churches needed no longer to hide, or half hide, in the basilicas of great Christian houses. Public churches were built everywhere, and they were thronged with worshippers, many of whose names were new among Christians. All the old disabilities were done away with, highest offices in city and army were being filled with Christians : to be Christian was no drawback upon the career of patrician or wealthy aspiring plebeian.

Justice had been done. Let it be done always. *Fiat justitia, ruat coelum* : only if the heavens are falling men need to know where shelter is. Justice was done as it had to be done, as it is apt to get itself done at long last. So far, good ; but not every result of its tardy arrival was particularly good for those on whose behalf it had been done.

For three centuries the faith had existed in all the concentrated vigour of repression ; it spread much wider now, but it spread shallower. During those unjust years it had been held by men who knew that they might have to die for it, who knew that they must suffer for it, paying the lifelong price of social ostracism or isolation, of disabilities in every turn of their worldly fortune ; and what cost them dear they valued dearly. Now it cost them nothing ; there was nothing to pay for it ; and its cheapness cheapened it. Soon indignant doctors of the Church were crying out on the lives of Christians, sometimes for heinous faults, but chiefly because the ways of these new-fashioned Christians were just as the ways of the pagan, or unbelieving, society in which they were finding themselves quite at home. Fashion was their ruin. To live as nearly as possible the same life as that of their non-Christian friends in society, that was their new endeavour ; to share exactly their amusements, their indulgences ; to be as extravagant, as showy, as profuse, as self-indulgent, as little serious, as little restrained. Pagan faults are not hard for Christians to learn, and according to St. Jerome and St. Ambrose the Christians of tolerating Rome soon learned them. They were in a hurry to repay the toleration they had lately received ; for a long time their forefathers' virtues had been out of

toleration : their contemporaries' vices they tolerated in a wonderfully short time—and copied. Of course there were saints still ; as in every age of the Church there have been and shall be ; but sanctity was not fashionable, and the saints, even those of highest rank and birth, as many were, were out of fashion, and scarcely known in society.

So runs one line of parallel. Need the other be laboured ? In hurriedly describing the state of Christians in the Empire during those first three centuries has not the state of Catholics in England during the three centuries following on the Reformation been described obliquely ? Of course, in England, Ireland, and Scotland the persecution was on a less imposing scale. Was it less bitter ? Or was the actual repression less rigorous, less complete, or less outrageous in injustice ? Were not the grounds of the national aversion from our faith rooted in the same causes, the same ignorance, the same half-blundering, all obstinate prejudices ? And was not the result of three centuries of oppression and repression on Catholics themselves alike, if not identical ? Here, too, we were a people half-despised, and yet respected by many for qualities which demand and enforce respect. Our Catholic forefathers were intensely in earnest, as well they might be, seeing what their Catholicity cost them. They were not social leaders, were not always polished, lacked public training, were without the education of home universities, were old-fashioned, had sometimes a foreign smack in their manners, led rather obscure lives, and kept closely to themselves. The *patois* of current fashion was not theirs ; there were among them many of the very highest rank with historic names, famous long before anyone had ever heard those of the nobility that came up when the monasteries went down ; but even these were rustic, living mostly in their country homes, not seen, or barely seen, at court : when seen regarded with a picturesque curiosity.

Yet how compact a body they were ; with every difficulty in their way how rigidly they held their faith, and how unflinchingly they followed it up in every consequence. Scarcely breathing the common atmosphere, they had their own, and its influence was with them from baptism to

death. They were in many ways unlike other people, and they did not mind. They had to be. It was part of being what they were.

Then came the slow-footed justice, grudgingly and of necessity, not very cheerfully given, not out of breath with haste, nor out of countenance for unpunctuality. She came not out of love but without it, selling herself, elderly courtesan as she was, and with her price in her hand wondered that her advent was not more acclaimed. Still she had arrived; and her coming caused many to look into the skies to watch their fall. Of course they did not fall: when clouds break it is not because justice is done, but because injustice has fetched them clattering about our ears. Well, in England we had no catacombs, only slums, and we came out of them. Our churches had been in ambassadors' houses, or those of country lords and squires; now they leapt up in the streets and squares of London and all the towns. And a thousand other good results grew of our new toleration, honest results hard won, and ours by right long before we had them in our hands. No one but a maniac would sigh for the old bad days of shameless repression back again.

Yet those old shadowed times had compensations that God gave while man's hand was against us. Let us be chary of losing them.

We breathe the common air now: has it no infection? Do we remember, as we used, that after all we live in an atmosphere alien from our faith? That the common opinion about us is founded on the assumptions we have always denied; that every newspaper breathes them, almost every public speech of orators and politicians? That the more we grow like our pleasant neighbours the less we may be resembling Catholics?

Are we learning, is there no danger of our learning, to regard marriage as it is regarded outside the Church? Do we remember that the Sacraments, and not Institutes for this or that, are our way of salvation?

Are we not too eager that our benevolences should be exactly like the philanthropy of those who believe in nothing beyond philanthropy? Half the philanthropy of our time



is founded on disbelief in God and the immortality of the soul of man. When 'charity' becomes a department of the Modern State it is mostly because the State has no faith in anything higher than Man. When governments promise to annihilate poverty it is commonly because they have officially annihilated God, Who can alone rob poverty of its sting: not because they love the poor for Christ's sweet sake, the Poor Man of Nazareth, but because they fear them, and recognize in them a danger and a menace. Is not that also like pagan Rome? The poor were fed there too, wholesale: bread and games were flung to them, and did anyone pretend it was for love? The loaves were to stop their mouths, which else might shout too loudly, not to stay their hunger out of any brotherly compassion for the hunger itself.

The conditions of poverty in England after the Reformation were the direct consequence of the Reformation itself, as even such Protestants as William Cobbett could see plainly enough. Before it the poor were the care of the Church, and especially of the religious houses, and their lot was never so pitiable as it became when the monks' charity was changed for the scurvy recognition of the Poor Laws.

To our questions again. Does it strike us that our amusements, too, are provided by those who believe almost nothing that we believe? Millions of people every year pass hours of their lives in theatres, where the plays they see are the work of writers who have no faith, either in God or God's commandments, certainly none in His Church or her right to guard our conduct as she guards our belief. Millions are reading books, novels, essays, biographies, snippings of history, satires, the enormous majority of which are written by those who have scarcely any conviction so strong as that the Church has always been in the wrong, her teaching an arrogant medievalism, obsolete and negligible.

We do not go to novels or to poetry to be taught, it may be urged: nevertheless, we are taught by whatever we read, in higher degree or lower. The age just concluded was one of immense literary importance: in poetry, in fiction,

in history, in social ethics, in natural science it produced in England a crowd of names so illustrious that we are convinced they are to be immortal. How few of them stood on the side of faith—*our* faith, which we must think of as the only one. Did Thackeray love the Church, or respect her principle? Did Dickens, Meredith, Hardy—or Scott before them? Yet their attitude was respect itself compared with that of Mr. Bernard Shaw and his crowd of imitators to-day; and perhaps Mr. Shaw's plays teach in a week more hearers than his greater predecessors' books taught readers in a month of weeks.

Tennyson was the worthiest of men, and knew it; but he was as Protestant as a parish clerk. Browning thought so many things at a time that it is not easy to decide which thought was actually predominant: but there was always the thought that the Vicar of Christ was an elderly nuisance, and that the best of his nominal children were the rebellious and disobedient. His Lyric Love, half-governess, half-bore, was never in two minds about it: to her the Old Man of the Mountains was the Old Man who sat among the Seven Hills beside the yellow river, whence she was inspired to dislodge him with every odd rhyme at her command.

Swinburne was as much irritated by one sort of Christianity as another, and, like Lothaw in Bret Harte's parody, said, 'Please, I'd like to be a pagan.' We know how Macaulay loved the Church and all her ways, how Froude loved them, and Carlyle, and Motley.

Matthew Arnold disliked Catholicity as much as a brilliant man could; and Ruskin's attitude to it was that of a travelled old maid who had taken Protestantism with him to Italy in his trunk, and brought it back a good deal creased, distinctly old-fashioned, smelling of camphor, and odd to wear, but by no means discarded. John Stuart Mill had a number of hardish ideas in his capacious intellectual stomach, and a good many of them his successors have spat up again as undigested as ever, but one of them was not that Christendom was a better idea than Europe, and that with the Pope at the head of it a good many things had been better managed.

Of those who taught natural science how many started with any assumption that, whatever might be wrong, God must be right? Was not the real theory this: If, when we have done, God can continue to exist, so much the better for Him, but all that's as may be; the point is quite different. Our business is to erect a universe without Him; if He can creep in afterwards, well, it will be a satisfaction to our aunts and the rector.

Of course the current point of view, which meets those who are growing up now, is not precisely identical. The Church's God does *not* exist, but there may be a different person of the same name: the great thing is to remember that he *is* different. He has no rights; he does not know anything, or care about anything, or do anything, or like anything, or disapprove of anything. The things he is supposed to have done were done by other people, or more probably were never done at all; his existence, such as it is or ever was, is morbid and subjective. He is only real at all because man made him; and very soon indeed he will cease to be real because man does not want him any longer. His existence then will resemble that of Homer, who never did exist, and whose epics were composed by a number of other people.

Is it not now worth while to remind ourselves that this *is* the atmosphere we are breathing all day long; that, as George Herbert sang with more force than grace, 'the fly that feeds on dung is coloured thereby'?

JOHN AYSCOUGH.



## STATE SOCIALISM

STATE Socialism, like so many other varieties of Socialist doctrine, originated, as a system, in the speculative brains of German philosophers. In its systematic form it was propounded by Rudolf Meyer<sup>1</sup> and Adolf Wagner.<sup>2</sup> But there are many shades of difference in the variety. Some of its supporters, like the statesman von Gerlach, were conservatives and monarchists in search of a king who could say, like Louis XIV., 'L'état, c'est moi.' Others were university professors, such as Lujo Brentano, Conrad and Schönberg, whose main object was to bridge the chasm between Socialism and political economy. Others, again, were Socialist Opportunists, who believed in or professed the full Socialist doctrine, but thought it more practical to realize it step by step. They would therefore support anything that pushed the general movement forward, and accept anything, by way of instalment, that did not clash in principle or in policy with 'the larger measure.' The 'Possibilists' of the present day in Germany and elsewhere would fall under this category; and the Fabian Society in England works upon the same lines.

With State Socialists, in the strict sense of the term, we must not confound what are known as 'Interventionists,' or partisans of the intervention of the State to reform abuses, rectify grievances, and keep both labour and capital within the limits of natural right and justice. Catholics may be, and for the most part are, 'Interventionists.' Pope Leo XIII., in his Encyclical *Rerum Novarum*, has clearly indicated the lines on which the State may lawfully intervene.

In the main, and taking the school as a whole, the State Socialists would not interfere, *directly at least*, with private property. They would not expropriate anyone; or, if

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<sup>1</sup> *Emancipationskampf des Vierten Standes.*

<sup>2</sup> *Lehrbuch der Politischen Oeconomie.*

they did so in the public interest, they would compensate him in full. They require no sudden transformation of political institutions, no social upheavals, no revolutions. Two things in their view have led to the deplorable condition of society as it is : *individualism*, which has left the workman as a unit to carry on the struggle for life by himself alone ; and *inequality*, which gives luxuries and useless accumulations of wealth to a few, whilst many are deprived of the barest necessities. The object of the State should be to remedy these capital defects, to *associate* the individual, and to *equalize* conditions.

The State, then, in the first place, should foster, encourage, and promote the *association* of the individual in guilds, trade unions, co-operative societies, and organizations for mutual help, as a preliminary to his further and final *association* as an owner and a ruler of the State itself. In the second place, the State should act as the brain does in the human body, ordering and regulating all its members. Its citizens are to obey its commands, automatically, inevitably, without demur. Its aim must be to establish equality of conditions all round. For that purpose all private services must be gradually transformed into public services. Banks, railways, insurance companies, mines, manufactories, transport, telegraphs and telephones, land, labour, commerce, industry, education, religion, must be brought more and more under State control, until they are finally absorbed, and the State becomes the general employer, the general provider, the general teacher, and the general paymaster of everybody.

There are, of course, grades in the school. Some would be satisfied if the principal industries and services were nationalized, so that the gentlemen who devote themselves to politics should have power to control everything indirectly if not directly. The patronage at their disposal would thus practically make them masters of the situation. Others would be satisfied with less sweeping monopolies ; whilst others still would not allow a vestige of private right and liberty to remain.

Besides the advantages already mentioned that are

promised from this new organization of society in the State, its partisans anticipate a more fruitful productiveness in all departments of enterprise, owing to the facilities for carrying things out on a great and systematic scale that would be at the disposal of the State. The State, moreover, would, they imagine, be strengthened all round : for, whilst its rulers would quickly take over the principal industries, they would be in a position to regulate down to the minutest details those which they would leave to private initiative. Their social legislation would regulate salaries, hours of labour, responsibility for accidents, insurance of workmen. They would be the bankers of the whole community, regulating credit and interest, lending for the most deserving objects, at varying rates, according to the needs of the different sections. They would keep the insurance of the citizens entirely in their own hands. They might, indeed, begin by utilizing the benefit societies and private companies, but gradually they would get rid of them. They would provide lodging, food, clothes, and work for the unemployed ; and in order to do this they would become shopkeepers, wholesale distributors, retailers. They would provide for sickness and old age, maintain hospitals, infirmaries and refuges, homes for orphans and foundlings. They would organize the defence of the country, maintain the army and navy, the civil service, the public departments. They would control education in all its grades, regulate its programmes, its *personnel*, and its teaching. They would hold a high hand also over the Church or the Churches, and if they did not enter directly into the domain of conscience they would aim at least at regulating the outward influences that go to form and mould it. The government entrusted with this great task would, of course, be elected on a broadly democratic franchise and be thoroughly representative.

Such, in substance, is the aim and the ideal of the State Socialists. Amongst the partisans of pure Socialism some look upon it as merely a step in the evolution of the movement towards collectivism pure and simple ; others regard it as a retrograde step : for whilst the State, entering into competition with private business men, would have



unlimited capital and credit, it could do things on a scale so large that it would wipe out all smaller competitors,<sup>1</sup> thus leading to a monopoly, throwing thousands of people able to earn a livelihood for themselves and their families out of business, plunging them in poverty and ruin, and setting up on the other hand a new set of capitalists who would be enriched by the destruction of the submerged.

However this may be, the drawbacks and dangers of State Socialism are not far to seek. Man does not live on bread alone, and there are many things more precious than money or material wealth. There are certain human rights and liberties, essential to the dignity and happiness of men, which have no place in this programme. The freedom of the subject, the freedom of the person, industrial freedom, intellectual, moral and religious freedom, political freedom, all suffer shipwreck in it. 'Any system' (as Professor Flint truly observes<sup>2</sup>) 'which implies that they are to be contracted or suppressed, may be reasonably suspected to be erroneous, likely to be fatal to human progress and welfare if successful, but really doomed to failure.' The system, if adopted, would make of the community one vast machine, which, whilst crippling the liberties that men value most, would reduce its members to the condition of automatons, crush out that individual energy which is the chief originator of progress, and bring about in rapid succession the enfeeblement and decay of the State itself. Finally, the theory of State Socialism has the disadvantage of being opposed in the main to the teaching of political economy. Wherever the teachers of this science are free from State influence and from the pressure of politicians they have, with the exception of a few *doctrinaires*, set their faces against the whole theory. And it must be remembered that this science, whatever may be its defects, has devoted itself exclusively to the elucidation of questions of this kind. Its professors have made a profound study of the facts, the statistics, the systems, the tendencies, the conditions, the data, and the results, on which a competent and enlightened

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<sup>1</sup> Emile Fagnat, *Le Socialisme en 1907*, p. 274.

<sup>2</sup> *Socialism*, p. 49.

judgment may be formed ; and there is no doubt or question as to their verdict.

The teaching of political economy, indeed, has varied considerably on the question ; but, whatever its variations may have been, it has, on the whole, recoiled from the theory of State Socialism. For a long period it was taken for granted that the business of the State was merely to protect natural right and defend its possessors against force and fraud.

The first professional writer on political economy in these countries, Adam Smith, defended the theory of natural liberty in the following words :—

Every man, as long as he does not violate the laws of justice, is left perfectly free to pursue his own interest his own way, and to bring both his interest and his capital into competition with those of any other man or order of men. The Sovereign is completely discharged from a duty, in the attempting to perform which he must always be exposed to innumerable delusions, and for the proper performance of which no human wisdom or knowledge could ever be sufficient : the duty of superintending the industry of private people and of directing it towards the employment most suitable to the interests of society.<sup>1</sup>

The three duties of the State, according to Smith, are (1) to protect Society from violence or invasion ; (2) to protect every member of Society from the unjust aggression of every other member of it ; (3) to erect and maintain certain works and certain institutions which it can never be for the interest or advantage of any individual or of any small number of individuals to erect and maintain.

John Stuart Mill, in his *Essay on Liberty*, holds ‘ that the sole purpose for which power can be rightfully exercised over any member of a civilized community, against his will, is to prevent harm to others.’ By the liberal school of economists the interference of the State is reduced to a minimum ; and whilst they do not all adopt the principle of *laissez-faire* in its fullest extent, they adopt it substantially.

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<sup>1</sup> *Wealth of Nations*, Book iv. chap. ix.

This same school had many partisans in France. One of the ablest and most eloquent of these was Frédéric Bastiat. Bastiat pours a torrent of ridicule on the intermeddling State. To him the unfortunate State is like the 'Barber of Seville.' Everyone is plucking at it; everyone is looking to it for something. It is nothing but

Figaro quà, Figaro là  
 Figaro su, Figaro giù  
 Tutti mi chiedono, tutti mi vogliono.  
 Ah! che bel vivere! che bel piacere!  
 Per un barbiere di qualità!

But after all he has some consolation. For is there not something good in store for him?

A te fortuna non mancherà,  
 Sono il factotum della città.

Bastiat points, with great vehemence, to the horde of officials, with porous and absorbing hands, which the State would have to maintain, to the ruin of industry and enterprise, and the wholesale danger of fraud and corruption by which it would be surrounded. He writes:—

Aujourd'hui comme autrefois chacun, un peu plus un peu moins, voudrait profiter du travail d'autrui. Ce sentiment on n'ose l'afficher, on se le dissimule à soi-même: et alors que peut-on? On s'adresse à l'Etat: et chaque classe tour à tour vient lui dire. 'Vous qui pouvez prendre loyalement, honnêtement, prenez au public, et nous partagerons.' Hélas! l'Etat n'a que trop de pente à suivre le diabolique conseil: car il se compose de ministres, de fonctionnaires, d'hommes enfin, qui comme tous les hommes, portent au cœur le désir, et saisissant avec empressement l'occasion de voir grandir leurs richesses et leur influence. L'Etat comprend donc bien vite le parti qu'il peut tirer du rôle que le public lui confie. Il sera l'arbitre, le maître de toutes les destinées. Il prendra beaucoup, donc il lui restera beaucoup à lui-même. Il multipliera le nombre de ses agents; il élargira le cercle de ses attributions; il finira par acquérir des proportions écrasantes.

If the State is to give much and to provide for everyone



it must take a great deal from its citizens. It is only fools or knaves who expect it to give much and take little. Taxation would, in the socialised State, reach huge proportions, and all individual enterprise would decay. The whole confusion arises, according to Bastiat, from the fallacious assumption that all right comes from the law, the right to property included, whereas natural right is anterior to law, and the real function of law is, or should be, to protect and defend it.<sup>1</sup>

They say, indeed, that all society is in the law ! If that is not the case then all these fine theories fall to the ground. And what ! To assert that positive law which always acts with authority, by way of constraint, supported by coercive power, showing as its sanction the bayonet and the dungeon, ending in a penal clause ; to say that the law which can decree neither affection, nor friendship, nor love, nor abnegation, nor attachment, nor sacrifice, cannot decree what resumes them all, viz., fraternity ; is that equivalent to saying that these noble attributes of our nature do not exist ? No, surely. It means that society is vaster than law, that a great number of acts are accomplished, and that a crowd of sentiments move and operate outside the ambit and the orbit of law.<sup>2</sup>

Herbert Spencer was as strong as any of the Manchester liberals in his opposition to State interference. The individual, according to him, had only one right—the right to equal freedom with everybody else ; and the State only one duty—the duty of protecting and defending that right. The only thing we want from the State is protection, and the protection we want most in recent times is protection from our protectors.<sup>3</sup>

Yet, even the most extreme supporters of the classical and liberal school of economy in these countries stopped short of the absolute doctrine of *laissez-faire*. It was, nevertheless, the application of that doctrine in the great industrial enterprises of the last century that has brought about the Socialist reaction. It worked like a gigantic and cruel machine, and became one of the most powerful engines of

<sup>1</sup> *Propriété et Loi*, p. 326 ff.    <sup>2</sup> *Op. cit.*    <sup>3</sup> *The Man versus the State*.

oppression and degradation that the world has ever witnessed. It was this grinding tyranny, which held no account of the moral nature of the instruments it abused, of the men, women, and children it oppressed, that has stirred Society to its foundation in our day. And whilst those whose moral sense has not been vitiated or distorted by selfishness and the immoderate desire of gain must offer the most strenuous resistance to the doctrine that stands at the opposite pole to that of unrestricted liberty and the unqualified aloofness of the State, they must and do call for State intervention in all matters in which fundamental justice, based upon the moral nature of men, is in question. They must also call for it wherever and whenever the material progress and happiness of the people demand it. The State has an undoubted right and is bound by imperative obligations to promote the material happiness and welfare of its citizens, and to adjust between them the material boundaries of right and duty. Its action, however, must be based on sound principles of morality and justice. '*Nisi dominus edificaverit domum in vanum laboraverunt qui adificant eam.*'

But between the two extremes there is, and has been at all times, room for moderate and sounder views. That the government of a State should have power to repel invasion, to maintain order, to prevent injustice, to punish crime, has been, indeed, universally acknowledged. That it should have power likewise to avert famine, pestilence, and disease has been generally admitted. That there are certain services which the State is peculiarly fitted to carry out, on account of its stability, permanency, and power of securing unity of administration, has been recognized and acted upon in all civilized countries. It has, with general consent, been entrusted with the management of the post office, telegraphs, and telephones. In some countries it has been called upon to direct and manage the railways. The State Socialists inquire why we should not move onward and extend the same system of management to land, labour, industry, commerce, and manufactures. The manifold objections to that step have been already outlined ; but one

that we have not yet mentioned has been ably formulated by John Rae in his *Contemporary Socialism*.<sup>1</sup> With all its advantages,

The State has one great natural defect : its want of personal stake in the produce of the business it conducts, its want of that keen check on waste and that pushing incentive to exertion which private undertakings enjoy in the eye and energy of the master. This is the great tap-root from which all the usual faults of Government mismanagement spring—its routine, its red-tape spirit, its sluggishness in noting changes in the market, in adapting itself to changes in the public taste, and in introducing improved methods of production. Government servants may very generally be men of a higher stamp and training than the servants of a private company ; but they are proverbial on the one hand for a certain lofty disdain of the humble but valuable virtue of parsimony, and, on the other, for an unprogressive, unenterprising, uninventive administration of business.

A service like the post office may be safely entrusted to the State, because it needs from its very nature a centralized administration, and can suffer but little from the routine spirit that paralyses other undertakings. Its capital is comparatively small, so that waste and corruption cannot go very far, and its work is carried on under the eye of the public, every member of which is keenly and directly interested in its honesty and efficiency. This is not the case with other government undertakings, such as dockyards and arms factories, the furnishing of military stores and naval supplies, of which the public know so little. When the curtain is now and again withdrawn which hides the secrets of these departments the ordinary citizen realizes why it is that taxation is so high and prosperity so variable. He knows, indeed, that he has a democratic government ; but again, to quote Professor Flint,

Democracies are always ruled by parties, their governors are always the leaders of parties, and parties and their leaders are naturally ambitious, selfish, and grasping, or, in other words, prone to aggrandize themselves at the expense of their adver-

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<sup>1</sup> Page 409.



saries and the commonwealth. Democratic governments are consequently in no wise exempt from temptations to the intervention which unduly restricts the liberties, undermines the independence, and saps the vigour of individuals and classes, of institutions, associations and communities.<sup>1</sup>

Many of the reasons that justify the nationalization of the post office would seem to apply with equal force to railways. In no branch of industry is unity of administration more advantageous. In no branch would the public benefit more by having its needs rather than the advantage of a private company taken into account. A railway company may, for the sake of profit, and for the benefit of its shareholders, adopt a policy that would prove ruinous to the industrial development of the country it is supposed to serve. It may suit its purpose to carry a less quantity of goods at a high rate than a greater quantity at a low, though the benefit to the general community by the reverse method might be far more substantial all round.

All British and Irish railways are in private hands, and it seems to be the universal verdict that, from the point of view of the general welfare, they are very badly managed. Mr. J. Ellis Barker is no friend of Socialism, yet he writes of the British railways :—

They are in many respects very backward, badly equipped, and badly managed. They have wasted their capital, watered their stock, and have paid dividends out of capital ; their freight charges are exorbitant ; besides, they give habitually, and by various means, preferential treatment of a very substantial kind to the foreigner.<sup>2</sup>

Here are a few cases of this preference, quoted from official publications by the Socialists :—

Carriage of a ton of British meat, Liverpool to London, £2 ; carriage of a ton of foreign meat, Liverpool to London, £1 5s. : carriage of a ton of eggs, Galway to London, £4 14s. ; carriage of a ton of eggs, Denmark to London, £1 4s. : carriage of a ton of plums, apples, and pears, Queenborough to London, £1 5s. ; carriage of same from Flushing, Holland, 12s. 6d. ; carriage per

<sup>1</sup> *Socialism*, p. 53.

<sup>2</sup> *British Socialism*, p. 269.

ton of English pianos,<sup>1</sup> Liverpool to London, £3 10s. ; carriage as above of foreign, £1 5s. : British timber per ton, Cardiff to Birmingham, 16s. 8d. ; foreign, as above, 8s. 10d. In the carriage of iron ore and steel rails the American railways charge 6s. 3d. where the British charge 29s. 3d.

In the evidence recently given before the Railway Commission here in Ireland innumerable instances were quoted of preference injurious to our struggling industries, and particularly our agricultural interests, having been given by the railway companies. We, however, are not, by any means, alone to complain. Things seem to be nearly as bad in England :—

There are [writes J. M. Davidson<sup>1</sup>] nearly 24,000 miles of railway in the kingdom, the greater part of which is owned or controlled by a dozen great companies who, moreover, have standing conferences through which they exercise a virtual monopoly against the public, although they have all the expenses of competing concerns. The public bears the cost and inconveniences of the competition without many of its benefits. The total capital of the companies is £1,300,000,000, of which £200,000,000 is nominal or 'watered' stock. A very large part of the rest was for extravagant sums paid to great landowners for their land, and another large part for legal expenses. On this huge capital a sum of £40,000,000 has to be earned in dividends. If the State bought out the railways it could borrow this necessary sum for at least £5,000,000 to £8,000,000 a year less than this, and at once effect enormous savings resulting from the present competitive and chaotic methods of the companies. Despite the virtual monopoly, there are over 3,000 railway directors drawing fees or salaries amounting to nearly £1,500,000. Of the principal of these there are eighty in the House of Lords and twenty-five in the Commons. Mr. Gladstone predicted that if the State did not control the railway companies they would control the State, and this has come to pass. Their servants are overworked and underpaid ; extortionate freights are charged in the carriage of goods ; unfair preferences are given, but Parliament is powerless to check all this.<sup>2</sup>

<sup>1</sup> *Free Trade versus Fettered Transport*, p. 9.

<sup>2</sup> *The Reformer's Year Book*, 1907, pp. 119, 120. The passage is quoted by Ellis Barker in *British Socialism*, p. 270.

The partisans of Railway Nationalization also point to India, where the railways are owned by the Indian Government ; to Belgium, Germany, France, and Australia, where the railways are partly, if not entirely, under government management. Yet apart from our objection to the tendency to centralize power and patronage in the hands of statesmen and politicians, we imagine that those who examine more closely into the working of State railways in other countries, and who consider for a moment the magnitude of the task involved in buying out and working the railways of private companies on a national or imperial scale, will not, perhaps, be quite so enthusiastic about the project as its Socialistic advocates. It is one thing to establish the system as an incipient enterprise, as has been done in India and Australia ; it is an entirely different thing to change radically a system that has been long established. In several of the countries in which the railways have been taken over by the State the rates have been but little changed, the management has not improved, the civility of the officials has deteriorated, posts have been created for political services, accounts have been manipulated to suit government requirements, national resources have not been at all developed to the extent that was imagined, unprofitable traffic is as severely declined as it was by private companies, and the vast machinery of the systems has been utilized to extend the power of ambitious politicians, who often care little for any moral or material interests unless they go to prop up and consolidate their own influence and authority.

In these countries, of course, the State has a right to a very considerable voice in the management of the railways ; for it facilitates the building of their lines, expropriates many landholders for their advantage, affords them protection and assistance in the carrying out of their work, and guarantees them against unlimited competition. What this guarantee implies can be judged from its absence in the United States. According to Mr. Lecky,

The unlimited competition in railway construction in the United States is the parent of some of the very worst influences



in American life. It has involved an absolute loss and waste of capital that it is impossible to compute. It has ruined countless families, and broken countless hearts. It has built up and consolidated some of the most colossal frauds that ever were known among mankind. It has spread its demoralizing influence through every pore of political and municipal life; and as the useless parallel line which is built along an important railway for the purpose of extortion is always sooner or later bought up by the other line it usually ends in a new monopoly.<sup>1</sup>

Here the State protects the private companies from this unlimited competition, and secures their shareholders and the public against the abuses that it entails. But in return for the manifold favours they receive the companies do not always take the public interest into account in their methods of management. They seem to consider their shareholders and them only. They go along the line of least resistance, and follow a policy that demands the smallest exertion of intellectual energy. Their directors are for the most part business men, who have many other occupations which tax their powers to such an extent that they are not free to work out in all its details the system that would satisfy the needs of the public and at the same time secure to the shareholders who supply the capital a fair return for their investments. It might, indeed, be an advantage to diminish the number of Boards in this country and reduce them to three. Even thus reduced the State should be so represented on them as to secure the public interest in their general policy. It should have power to co-ordinate them in a general system for the general benefit; and it should have power to insist that the benefit of the people through whose country they run should be their primary consideration. A few well-paid and competent officials of this kind, giving all their time and all their intelligence to the questions involved, and responsible to public opinion and public authority for their work, ought to be sufficient to remedy the defects of which so much complaint has been made. But as for centralization

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<sup>1</sup> *Democracy and Liberty*, vol. ii. p. 300.

and nationalization in the full sense, we do not see many advantages in it while we anticipate many disadvantages. Speaking of the general system of railways in the United Kingdom, Mr. Rae says :—

The post office with its capital of £80,000 is a plaything to the railways with their capital of £800,000,000,<sup>1</sup> and their revenue little short of that of the State itself. The operations are of a most varied nature, and only some of them could be exposed to effective criticism. The mere transaction of purchase excites in many minds a not unreasonable fear. If Government made a bad bargain with the telegraph companies it would be sure to make a worse with the railway companies, who are fifty times more powerful; and besides it would very likely have to borrow its money at a higher figure: for though it could borrow £2,000,000 at 3 per cent., it could not borrow £800,000,000, for the simple reason that the number of people who want 3 per cent. is limited, most holders of stock preferring investments which, though more risky, offer a prospect of more gain. If in trying to balance those weighty *pros* and equally weighty *cons* one turns to the experience of State railways (in other countries) he will find that as yet it affords few very sure or decisive data, because it varies in the different countries, and times, and has been very differently interpreted.<sup>2</sup>

It seems, then, that for the present, at least, a judicious combination of the authority of the State with that of the companies would make for greater efficiency and for greater national utility, whilst it would secure private interests and the rights of private property against the rapacious and evil foreboding spirit of Socialism. There are some other services in which the assistance of the State is of the greatest value; and it may be taken for granted that the promotion of the interests of its citizens, where all of them are interested, is at least a secondary obligation and function of the civil power, whilst the protection of their rights is the first. The doctrine of unlimited liberty supported by the Manchester school was an application of Darwinism to public affairs. It excluded the notion of

<sup>1</sup> It is now, we believe, £1,300,000,000.

<sup>2</sup> *Contemporary Socialism*, p. 416.

morality. It consecrated the *struggle for life*. It made the 'sweating system' a national institution. It regarded the workmen as so many machines and ignored the dignity of their manhood as well as their rights as Christians. We have remnants of it with us still. We see it sometimes even parading our streets. We see unfortunate fellow-men transformed almost out of human shape to serve as advertisements for greedy speculators. Such a degradation we regard as a crime against the poor, a crime against the dignity of Christian men, an abuse that the State is not only justified in suppressing, but in punishing.

But the hardship, the grinding slavery, the squalid poverty, that resulted from the application of the liberal doctrine are undoubtedly on the wane. And we cannot but express our admiration for the admirable skill with which the Government of these countries has steered clear of the Socialist reefs in two such important operations as the land settlement in Ireland and the insurance legislation of the United Kingdom. The former has extended and confirmed the conservative elements of the nation and greatly increased the happiness of the people, whilst it has respected the rights of property to the fullest extent that was compatible with the general well-being of the community; the latter has extended and confirmed the great guilds and societies, whose liberties are a valuable counterpoise to the increasing tendencies of State predominance. Neither of these great enactments has tended to unduly centralize power or patronage, and the people who benefit by them are left absolutely free in the exercise of their civil and political rights. With almost greater pleasure still we hail the provision of old-age pensions, which is the best effort made in our day to restore to the poor the inheritance of which they were robbed at the Reformation.

The State has been pressed in more than one direction to extend its help to co-operative and joint-stock undertakings as a preliminary to full nationalization. Much help may, indeed, be given to struggling industries by assistance of this kind, without any ulterior object. But experience, we think, has proved that private establishments, even when



they pay much higher wages, produce much more for the capital invested than the average joint-stock company. Mr. Rae, who has carefully considered this question, says :—

If, then, all the industries of the country were placed under joint-stock management the result would be (1) a general reduction in the amount produced, and (2) a consequent reduction in the general remuneration of the working-classes, and the general level of natural comfort. And the result would be still worse under universal government management. One of the labourer's greatest interests is efficient management ; and if he suffers from the replacement of individual employers by joint-stock companies, he would suffer much more by the replacement of both by the State, excepting only those few departments of business for which the State happens to possess peculiar advantages and aptitudes.<sup>1</sup>

To resume, then : The duty of the State is to protect the natural rights and to promote the interests and prosperity of its citizens. It has a right to intervene where these interests are concerned ; but it has no authority to meddle with the fundamental and natural rights of its citizens otherwise than to defend and protect them. In the complicated conditions of our day it is not always easy to determine what these fundamental rights may be, or rather to recognize the actual points where they apply. We can only judge of the cases as they arise, and exercise the wisest judgment at our command in dealing with them.

It is not enough [writes Professor Flint] that a government should be itself convinced of the justice and expediency of its intervention ; it is also important that the justice and expediency thereof should be perceived by the nation at large. Governments must beware of coming rashly into conflict with the reasons and consciences of even small minorities of honest men. Otherwise they will either have to make exceptional laws for these men or to treat them as criminals ; and the adoption of either alternative must, it is obvious, very seriously discredit and weaken their authority. Socialists demand that the State shall do many things to the doing of which there is this insuperable objection, that even were these things right and reasonable in themselves,

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<sup>1</sup> *Contemporary Socialism*, p. 418.

there are so many persons who firmly believe them to be unjust and tyrannical that they can only be carried into effect by a vast and incalculable amount of persecution. But persecution does not lose its wickedness when it ceases to refer to religion.

We hope that whilst the State in these countries may continue its beneficent intervention to protect life and property, to secure to the labourer the natural and full reward that is due to him, to protect the moral as well as the material rights of every grade, to promote and improve the condition of its citizens and help them onward in their countless and varied pursuits, it will at the same time avoid the temptation to centralize all power in its own hands, to curtail the natural liberties and rights of individuals, to interfere in the petty details of private enterprises, and to meddle with matters that generally transcend its sphere.

On the observance of this rule the happiness and prosperity of its people must greatly depend. If the progressive elements of its organized life are impeded, the State, like all other productions of nature, must lapse into somnolence and lethargy. If, on the other hand, the conservative elements that constitute the bulwarks of its equilibrium are removed ; if the free citizen, the family, the corporation, the guild, the associated groups of workers or of projectors of work are ignored or overwhelmed, the State must rush headlong to anarchy and ruin. But whilst the State should not unduly interfere, neither should it allow itself to be dominated, as is often the case, by a small band of financiers and capitalists, who control immense organizations, and usurp to a great extent the functions of the State itself. This is worse than the tyranny of any government, and effective measures should be taken to bring it under control. What these measures should be is a question which may be safely left to statesmen who are more inconvenienced by it than others. How far the State is free to pursue by taxation or legislation the equalization of conditions must be considered in a subsequent article.

J. F. HOGAN, D.D.

## UTILITARIANISM

## I.

IT is very hard to convey quite correct ideas about the value of pleasure and pain ; even in urging the excellent doctrine that man's last end is perfect happiness it is possible to fix the attention too exclusively upon what is called, subjectively, ' pleasant state of consciousness ' to the neglect of the noblest object by which that state is produced, when the noblest faculties are exercised in its fruition. Blessedness of the soul lies in its best activities when unimpededly engaged upon their highest object. If this last term is left out of court and the fatal abstraction is made of mere gratified subjectivity, then the fallacy comes in that pain is the only evil. The danger is practically exhibited in what Mr. Watts Dunton wrote in the *Athenæum*<sup>1</sup> on the occasion of the death of his great friend, William Morris :—

Every time I saw William Morris he declared, in answer to my inquiries, that he suffered no pain whatever. And a comforting thing this is to us all that Morris suffered no pain. To death himself we may easily be reconciled—nay, we might even look upon him as nature's final beneficence to all his children, if it were not for the cruel means he so often employs in fulfilling his inevitable mission. The thought that Morris's life had ended in a tragedy of pain, the thought that he to whom work was sport and generosity the highest form of his enjoyment, suffered what some men suffer in ' shuffling off this mortal coil,' would have been intolerable almost. For among a thousand and one charms of the man this perhaps was the chief, that nature had endowed him with an enormous capacity of enjoyment, that circumstances conspiring with nature had said, Enjoy ! If it be true that men are hastened to maturity by misfortune, who wanted Morris to be mature ? Who wanted him to be otherwise than the radiant boy of genius that he remained till years had silvered his hair and carved wrinkles on his brow ? Old age Morris could not have borne with patience. Pain would not

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<sup>1</sup> December 10, 1896.



have developed him into a hero. The beloved man, who must have died some day, died when his marvellous powers were at their best, and died without pain. The scheme of life and death does not seem so much awry after all. In our last interview but one he surprised me by leading the conversation upon the subject he rarely chose to talk upon—the mystery of life and death. The conversation ended with these words of his: ‘I have enjoyed my life, few men more so; and death in my case is sure.’

That is the very literally carried out principle of Utilitarianism in its narrower form: it is the gospel of *vivre et jouir* against that of *pati et mori*, two contrasted mottoes that have guided two classes of men to their opposite goals along the way of pleasure and the way of the cross respectively. The sharp contrast may be made yet more vivid by the statement of a simple fact that otherwise would have found no record. The above extract was copied out within hearing of the last groans of a dying priest. Unlike Morris, he had suffered much pain in his life of repeated illnesses—very acute pain, indeed. Several times he had seemed so near death as to be given the Last Sacraments; but he survived dangers and lived to reach his eightieth year. On the hedonistic theory this was very wretched: but is not that theory itself wretched in point of morality and for the bulk of mankind beyond possible attainment? To say Yes need not imply that the pleasures of Morris were sensual or low in the order of merely mundane enjoyments with no calculation above this plane; for on that standard they may have been of high class. Another contrast in ideals may be taken from a poem written by a father for his son, at the suggestion of a memorial brass put up at Clifton School in honour of *alumni* who have died far from home in the service of their country:—

God send you fortune, yet be sure  
 Among the lights that gleam and pass  
 You'll live to follow none more pure  
 Than that which glows on yonder brass.  
 ‘Qui procul hinc,’ the legend’s writ—  
 The frontier grave is far away—  
 ‘Qui ante diem periit,  
 Sed miles, sed pro patria.’

The exhortation follows thus :—

To set the cause above renown :  
 To love the game beyond the prize ;  
 To honour while you strike him down  
 The foe that comes with fearless eyes ;  
 To count the life of battle good,  
 And dear the land that gave you birth,  
 And dearer yet the brotherhood  
 That binds the brave of all the earth.  
 My son, the oath is yours ; the end  
 Is His who built this world of strife  
 And gave His children pain for friend  
 And death for surest type of life.

There are, then, two ideals that draw two different sorts of men : one sort shrinks from pain and courts pleasure ; the other courts high deeds and readily renounces pleasure and faces pain. The latter quest may be divorced from religion but it ought not to be estranged. And as Plato held τὸ θυμοειδές, the spirited passion, to be more allied to virtue than is the concupiscible passion,<sup>1</sup> τὸ ἐπιθυμητικόν, so we may say that at least a presumption lies in favour rather of the type honoured upon the Clifton brass than of the type approved in the obituary notice written for the *Athenæum*. Neither ideal is without failure ; but the possible and more-to-be-expected futility of the latter is tellingly described in what Job has to say about the prosperity of the wicked :—

How is it that the wicked live, and grow old, and wax in strength ? Their offspring is established around them, their children flourish before their eyes. Their house is in peace, sheltered from all fear. The rod of heaven touches them not : their bulls are always fruitful : their heifers bring forth without miscarriage. They pass their days in pleasure, and in an instant they go down to the grave ;

perhaps without agony, without those days of decrepitude

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<sup>1</sup> The difference between ἐπιθυμία, the appetite which is drawn by pleasure and repelled by pain, and the appetite for hardy adventure, which is θυμός, marks the character of the British explorer and hunter of big game.

'which please us not.'<sup>1</sup> Up to the end they enjoy and they die without feeling it, suddenly taken away at their ease. That end some men covet.

So far we have indicated two ideals of a career which naturally attract opposite temperaments—the lovers of pleasure and the lovers of achievement in scorn of pleasure. We have now to see what the former is worth.

## II.

English Ethics as a national product may be said to have taken a start from Hobbes, whose principle, that man is so limited to action arising from the spring of self-love that love of others must be reducible to love of self, naturally worked in the direction of a more or less Epicurean hedonism, which finally, under J. S. Mill, acquired the settled name of Utilitarianism. The standard became rather the greatest happiness than the greatest goodness to be diffused as much as possible throughout the whole race of men. Hobbes did not explicitly and consistently deliver his theory as hedonistic, but he implied it in such assertions as that the motives which drew men into society were avoidance of pain, pleasure in the acquirement of lucre and of reputation, and pleasure in the humiliation of rivals. That is hedonism of a low type. The higher appetities were for him only transformations of the sensual guided by the organic feeling in regard to them 'that they helped or hindered vital action.' 'The dictate of right reason about those things is that are either to be done or omitted for the constant preservation of life and members, as much as in us lies.'<sup>2</sup>

Horror at so ignoble a morality called forth, as Sir J. Macintosh narrates, enough books to form a library. Unfortunately, the champions of a better system had not the psychology which would enable them to deal most effectively with the error they had to put down, namely, that man can act only from self-love. The consequence was that some, while upholding the distinct call for self-

<sup>1</sup> Eccles. xii. 1.

<sup>2</sup> *De Cive*, cap. 2.



sacrifice, yet did not see how to make its position secure without some such device as calling in a 'moral sense' or a 'sentiment of benevolence' or 'a gift of sympathy' to supplement the persuasive powers of reason and its attendant emotions. The scholastic writer can validly maintain the situation by vindicating the masterfulness of free-will. Will is not simply an initiating power, independent of presented motives ; but it can under normal circumstances dominate them, and make the better prevail by a free choice of its own. As rational will, that is, as will united intrinsically with the intellect that guides it, it can hold practical and effectual discourse with itself, saying, for instance : Love of self is driving me by a sort of compulsion not to sacrifice myself for an ill-requiting enemy ; but I will not go with that inclination : I will force myself to an act of self-abnegation, because I see it to be either obligatory or at least very commendable. The satisfaction to self from such a deed cannot fairly, in the most trying cases, be called pleasure : it is stern recognition of virtue as good, and need not be accompanied with the reflex consciousness that God at least will reward the deed. The fact of such conduct is known with absolute certainty by thousands from their own experience. Such an heroic act is not the quasi-mechanical resultant of competing impulses : it belongs distinctively to a higher order, to the spiritual activity of a soul that can manipulate and dominate its motives, so as to cause the best to prevail because it is morally best, and not because it makes felt the predominance of what can be fairly styled pleasure. Many a chivalrous act can be performed when there is no exaltation of pleased feeling to carry it through : all is grim endurance for virtue's sake in oblivion of recompense, except as a sort of sub-conscious underground which can never be absent from the true Christian. How for want of sound principles as given above the praiseworthy attempts of those who sought to correct Hobbes laboured under defects of execution we may now examine in detail, and see how their radical fault was not to give a noble agent the fullest credit of his deed when

he chose the better cause with insight into its moral worth, and was not simply directed in the way settled by an over-balance of conflicting impulses towards pleasure for himself.

Forward among the assailants of Hobbes were the Cambridge Platonists, who very likely thought at times of the example set them by Plato in his onslaught upon the sophists. Henry More was one of the school ; unfortunately he showed to disadvantage in using several expressions which seemed hedonistic in their tendency. Even some of Aristotle's phrases have not escaped a similar charge, which it is difficult always to guard against ; but he has a substantial defence in his distinction of *εὐδαιμονία* from *ἡδονή*, and in his insistence upon the good life *τὸ εὖ ζῆν ἐν ζωῇ ἐν πράξει*.<sup>1</sup> If one is determined to stretch the term pleasure to the utmost, then all attraction to virtue may in that widest sense be called hedonistic, and of this Aristotle showed that he was aware. But he held firmly the distinction from hedonism which would have made him deny the sinking of differences reported by Plutarch of a certain philosopher who held the student's pursuit to be one of pleasure—*οὐδὲν τὸν σχολαστικὸν βίον τοῦ ἡδονικοῦ διαφέρειν*. As to Henry More, in urging that 'dry reason' has no motive sufficient for virtue, he says that we must look for assistance to the affective, emotive side, and use our 'boniform faculty,' whose office it is to 'give relish' for 'the sweetness and savour' of good actions, as things 'grateful, pleasing, suitable, and conducive to our preservation.' Hence the practical quest he assigned for Ethics is placed in 'the pleasure which is derived from a sense of virtue.' It is easy to see the truth underlying statements such as these ; still it is misleading rather than helpful thus 'to multiply entities needlessly' by introducing a 'boniform faculty.' Against hedonists after the type of Hobbes, More maintained his strong antipathy, classing them under cover of the Latin language, 'inter homines stipites plane lapidesve, larva philosophica indutos, ut imperitum vulgus decipiant, Non ut philosophos

<sup>1</sup> I. E., 4, vi. 5, 4.

eos accipimus, sed ut fatuos homines deliros': 'they are not men but blocks of wood or stone; they put on simply the mask of philosophy to take in the ignorant: they are to be accounted not philosophers but fools.'<sup>1</sup> If, indeed, they were so demented as they are described above, they would not be open to 'right reason.' However, More's distinction on this point is worth noting when he enumerates a better class who can be appealed to on their emotive side to give preponderance to their affections, and an inferior class who have to be approached through intellectual arguments—won by head rather than by the heart or 'boniform faculty.'

Another of the Cambridge Platonists took up much more the intellectualist position of their Eponym, and argued that the same intelligence which is valid for the physical is valid also for the moral world. Rejecting the degree of naturalism involved in the materialistic psychology on which Hobbes built his Ethics, he yet claimed that spiritual perceptions come as much within the reach of man's nature as do material. 'Things which belong to the mind, such as morality, politics, and laws, are no less to be accounted natural things, or real and substantial, than those things which belong to stupid and senseless matter.' The last phrase of the sentence is out of place nowadays, as needlessly contemptuous; at any rate it is right so far as it sets matter below mind. The writer is Cudworth in his treatise on *Eternal and Immutable Morality*.

Cumberland is a third opponent of Hobbes from the same school of Platonists. Though he did not use the title he has been called the 'Father of English Utilitarians' on the insufficient ground in common with them that he treats morality as aiming at 'regard for the common good of all,' according to 'a supreme law of nature which seeks the common good of mankind.' Again, 'the greatest possible benevolence of every rational agent towards all the rest constitutes the happiest state of each and all; accordingly the common good will be the supreme Good.' So much certainly of utilitarian doctrine is found in the *De Legibus*

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<sup>1</sup> *Enchirid. Metaphys.*, Praef., n. 11.



*Naturae* of Cumberland. But he gives a saving interpretation to his words by distinctly placing happiness in perfection, and perfection in the observance of the moral law as it comes from God. This, surely, is quite enough, even though he do not make the explicit assertion proffered by Henry More that not all duty is social because, besides 'sociality,' there is 'an internal life of the mind, not bound up with communion,' but proper to the individual in relation to his Creator.<sup>1</sup>

One remark, by the way, on the anticipation in the Cambridge Platonists of the utilitarian formula, 'greatest happiness of the greatest number' may be introduced through the word 'prefer,' as it occurs in a sentence of Henry More's: 'The good which you PREFER for yourself in given circumstances you ought to *prefer* for another in the same circumstances, as far as it is possible without injuring a third person.' Probably the author had not explicitly in view here the preferential morality; and yet in some way he ought to have so had it consistently with the formula, 'greatest happiness of the greatest number'; for that implies an optimism. And later Bentham more decidedly speaks in the preferential form, saying: 'Virtue is the sacrifice of a smaller to a greater interest, of a momentary to a permanent interest.' None of these writers, we may surmise, would have condemned England if she had rejected free trade on the ground that, though it was best for the world at large, it was worse for her own comparatively small area. Preferential morality was at that time not a question explicitly raised.

To speak now of some who, instead of Henry More's 'boniform faculty,' put a 'moral sense'; we may start from Shaftesbury. Whewell thought that only in his marginal notes was the phrase to be found; but it occurs once or twice also in the main text, where we come across these passages: 'No sooner does the eye open upon figures and colour than straight the beautiful results; no sooner are the human affections described than straight the inward

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<sup>1</sup> See Scholia to the Noemata of the *Enchiridion*.

eye distinguishes the fair and shapely, the amiable and admirable.' The same idea he applies to the beauty of the soul, which is a moral comeliness resulting from 'a due balance and counterpoise of the affections.' Hereupon he falls under the Stoic phraseology of the *τόνος*: 'Is there no natural tension, tone or order of the passions or affections? No beauty or deformity of this moral kind?' 'Virtue is the chief of all beauties and excellences.' To detect the moral beauty is the work of 'the eye, and the ear of the mind,' on the analogy of painting and music: it is a matter of 'taste,' of 'relish,' of 'sensations,' and finally of a 'moral sense.' It will be seen how, in spite of reference to sense or feeling, the description is kept preferably on the intellectual side of insight into objective order or worth. A reason for the preference was that the author wished to assert, against the Puritan denunciation of the beautiful, the value of æsthetics. He had the further purpose, in opposition to the selfish hedonism of Hobbes, which was founded on gross calculations of gain, to uphold a rationally defensible system of benevolence so disinterested that he counted virtue done for the sake of reward no virtue, and reformation made through the dread of punishment no reformation. 'By a superior sense which I call moral we perceive pleasure in the contemplation of good actions in others, and are determined to love the agent (and much more do we perceive pleasure in being conscious of having done such actions ourselves) without any view of further material advantage.' Then comes a sentence in mitigation of what might have seemed hedonistic in this scheme: 'That which excites us to the virtuous actions is not the intention to obtain even the sensible pleasure, much less future rewards, but an entirely different principle of action from self-love.' Here Hobbes is absolutely set aside.

At the same time the quotation calls up the needless confusion raised in the mind of Butler, who thought that, at least hypothetically, there might be a conflict between rational self-love and conscience in which the latter would have to yield. He distinguished not happily three sources

of moral action—Reasonable Self-love, Benevolence, and Conscience. It consoled him to think that a conceivable antagonism between the first and the third could not in fact, and in view of sanction laid up in heaven, ever occur ; but in theory, which would become practice if this life were the only one, on occasion of a contradiction between the two, conscience would have to yield, because ‘ calm reason can never sanction an act which does not ultimately make for, or at least not against, our own happiness.’ If this is true, in a general way, it leaves room for exceptions in detail ; for it is to be noted that free-willed man has a mastery over his intentions and can truly say to himself about some definite action : ‘ I so desire the moral good which is in this deed that I would do it for its own sake even though all reward were withheld now and for ever ; the virtue for the virtue’s sake offers here and now a motive adequate for me. I can and do adopt it as mine.’ Such a process of abstraction, at least in particular instances, is not impossible and is not nullified by appeal to pleasure in the act of abnegation itself ; for that often brings with it no feeling of exaltation and leaves the virtue a stern exercise. Even Mill, on this point, would not wholly deny what John Grote says in the *Examination of the Utilitarian Philosophy*<sup>1</sup> : ‘ There may be work, business, duty, whatever we may call it, for men to do independent of conscious effort after happiness,’ in the ordinary sense of the term.

Another who more or less supported the ‘ moral sense ’ and one chief item in Utilitarianism is Hutcheson, for instance, in this sentence : ‘ Our moral sense would recommend to our election as perfectly virtuous such actions as appear to have the most universal tendency to that greatest and most extensive happiness of all the rational agents to whom our influence can extend.’<sup>2</sup> ‘ That action is best which secures the greatest happiness of the greatest number.’ He maintained as to the gift of a moral sense that it was the Creator’s provision against the insufficiency of argued-out conduct.

Before coming to those who were Utilitarians in name as

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<sup>1</sup> Page 69.

<sup>2</sup> Enquiry, § 3.



in fact, we may consider Paley as a Utilitarian distinctly on Christian principles. He overcomes the supposed limits of self-love by saying that God enforced altruistic self-sacrifice by future rewards and penalties. Against him as an ally Mill urged that instead of regarding utility as the very source of morality he looked on it as 'the mere index of the will of God.' Appeal may be made for the statement to Paley's *Moral Philosophy*, at the opening of Book II.: 'We can be forced to nothing but by what we ourselves are to gain or lose.' The 'fitness of things' for Paley means directly fitness to produce happiness, or, as Gay said, 'Obligation is the necessity of act or omission in order to be happy according to God's will.' Paley chimes in: 'We should not be obliged to do what is right, to obey God, unless reward or punishment, pleasure or pain, somehow depended on our obedience.' 'God wills the happiness of His creatures, and the method of coming at the will of God by the light of nature is to enquire into the tendency of action to promote or diminish the general happiness.'<sup>1</sup>

This is going beyond the truth which St. Thomas would admit, that man could not love God unless he were aware that God was somehow good to him. To be aware of the contrary is a ground of obstinacy in lost souls who have no hope. Nevertheless, as regards particulars the wayfaring Christian need not have the motive of reward explicitly present in every self-denying act of virtue. Another dynamic is within his competence.

Sufficient by way of specimen has now been given to show the general way along which Ethics in England, as regards two or three characteristics, travelled from egoistic Hobbes to those altruistic Utilitarians in the nineteenth century of whom Leslie Stephen has written the history, and we must now take some observation.

### III.

'Utilitarianism' was the term finally fixed upon to designate a school of ethical thought in a rather haphazard way, through the choice made by J. S. Mill of a name for

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<sup>1</sup> Book i. cap. vii.

a small society which he gathered round himself and which speedily dissolved. His account of the matter runs thus : ' I found the word in one of Galt's novels, in which a Scotch clergyman is represented as warning his parishioners not to leave the Gospel and become Utilitarians. With a boy's fondness for a name and a banner I seized on the word '—which Bentham had before employed in a casual way. As for Bentham, he would have more offended the Scotch minister than would have Mill, for he had not only left God out of his philosophy, but judged pleasure by quantity alone, uttering the oft-repeated saying that, the quantity being equal, 'push-pin is as good as poetry'; though of poetry, by the way, Bentham spoke with great contempt. He did not, however, with Helvetius assert physical pleasure to be his type, but he neglected appeal to those more honourable terms the omission of which Mill condemned in him, such as 'sense of honour,' 'love of order,' 'love of beauty.' 'None of these powerful constituents of human nature,' says the critic, 'are thought worthy of a place among his springs of action.'<sup>1</sup> The fact was Bentham, believing in practical utilities alone, which were to be proved by increased welfare, scorned all that he classed as 'fiction' and 'dogmas of men,' among which he enumerates 'contract' as the origin of governments, 'moral sense,' 'right reason,' 'nature's law,' 'natural justice,' 'good order,' 'obligation.' About 'ought' he made the small joke that it *ought* to be abolished from the language. He took almost a childish delight at his discovery of the talismanic word 'utility'; he regarded it at first as so valuable that he would not have taken £500 for the sheet of paper on which he had recorded his lucky find. It seemed to him so much more efficient than the technicalities which had displeased him when a student in Blackstone's lectures, and had also offended him in the American Declaration of Independence. 'Rights of men' were for him what the Americans call

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<sup>1</sup> See Mill's *Dissertation on Bentham*. Bentham's joke on poetry was that it differed from prose because in prose the lines went the full width of the printed page, in poetry not so. Of his own altruism he said, 'I am a selfish man by nature as any man can be selfish. But in me it somehow so happens that selfishness has taken the form of benevolence.'

‘bunkum.’ He preferred to work on two cardinal facts: ‘Nature has placed mankind under the governance of two sovereign masters, pain and pleasure. It is for them alone to point out what we ought to do as well as to determine what we shall do.’ Here he introduces his nominally discarded word *ought*. His sentence might be a challenge to an opening declaration in the Canon Law of Gratian: ‘Humanum genus duobus regitur videlicet jure et moribus.’ As Martineau has since constructed an ascending scale of springs whence conduct may rise, so Bentham gave a strange list of hedonistic springs which defy comprehension under any principle of order, if indeed what appears in the published *Deontology* is his work. They are pleasures and pains of sense, of wealth and want, of skill and awkwardness, of amity and enmity, of good and ill repute, of power and powerlessness, of pity and its opposite, of sympathy and antipathy, with others needing no mention. Curiously enough, in the end he fell out of love with his darling watchword ‘utility’ and took to his heart instead ‘the greatest happiness of the greatest number,’ for which he acknowledged indebtedness either to Priestly or to Beccaria. He might have added others—Henry More, or Cumberland, or Hutcheson, or even Cicero—who used the words ‘prodesse quam plurimis,’<sup>1</sup> or Seneca,<sup>2</sup> ‘prodesse hominibus, si fieri potest multis, si minus paucis.’ Other claimants might be mentioned to a naturally occurring principle of general philanthropy, which no single man could lay simply to his own credit. Credit for himself on the ground of what he personally had done Bentham sought to secure in the provisions of his will. There he asked recognition as the Newton of legislation, with posthumous honours greater than he had met with in his life. He arranged for a commemoration ceremony to be held yearly, into which his own embalmed body should be introduced, with as lifelike an appearance as possible. As a recognizable fact he and his school, by concentrating attention on the amelioration of society so urgently needed

<sup>1</sup> *De Finibus*, ii. 1, ii. 24, iii. 20; *De Officiis*, i. 6, ii. 18.

<sup>2</sup> *De Otio*, 3.



in those bad days of rising industrialism, did bring about much reformation, not by appealing to abstract 'justice,' but to the removability of much terrible suffering and to the introduction of much comfort. This Bentham urged on a principle openly Utilitarian: 'Take away pleasures and pains, and not only happiness but also justice and duty are mere empty names.'<sup>1</sup> 'What happiness is or pain everybody knows: what justice is, is a matter of dispute.'<sup>2</sup> 'Dream not that men will move a little finger to save you, unless their own advantage is obvious.' These are detracting features against the efficacy of these principles, but still much driving power remained, more than would be found in a merely pietistic scheme which made no appeal to 'that great deal of human nature' which is said to be in us all. Southey, therefore, was not wholly correct in nicknaming the movement 'futilitarianism,' but the Scotch minister before mentioned was right from one point of view in what he is recorded in Galt's *Annals* to have preached:—

I told my people that I thought they had more sense than to secede from Christianity to become utilitarians; for that would be a confession of ignorance of the faith they had deserted, seeing that it was the main duty inculcated by our religion to do all in morals and manners to which the new-fangled doctrine of utility pretended.

It was the aim of J. S. Mill to give an elevation of tone where Bentham had seemed needlessly to repudiate ideals. So he asserted higher qualities of pleasure, and not merely larger quantities—the quality being tested by experience.<sup>3</sup>

<sup>1</sup> *Works*, vol. i. p. 206.

<sup>2</sup> Constitutional Code apud Leslie Stephen's *English Utilitarians*, vol. i. p. 238.

<sup>3</sup> As to felt superiority in quality of pleasure Bergson has determined to go one better than Mill. He writes in the *Hibbert Journal*, October 1911, pp. 41, 42: 'Nature has taken pains to give us notice every time the destiny of man is accomplished; she has set up a sign which apprises us every time an activity is in its full expression.' The sign is not *pleasure*, for that signifies only preservation and propagation of life. The sign of highest direction is *joy*, 'the emphatic signal of the triumph of life. Wherever joy is creation has been, and the richer the creation the deeper the joy.' Others put the sense of the heroic, as Maeterlinck: 'Est-ce qu'un acte héroïque ne dépasse pas toujours les bornes de la raison? Et, cependant, qui donc oserait dire que le héros n'est pas plus sage que ceux qui ne bougent pas parce qu'ils n'écoutent que leur raison?'

He passionately claimed a place in utilitarianism for self-sacrifice ; for a life small in enjoyments, but rich in noble endeavour ; for virtue loved in itself ; for Stoic virtues on the top of Epicurean. Even Christianity was offered a place in his scheme, if it could prove its heaven and hell. Still clinging to empiricism as primal<sup>1</sup> he asserted derivatively a sort of 'moral sense,' 'a basis of powerful natural sentiment,' a generous sympathy, universal in its range. Better a Socrates dissatisfied than a sensualist satisfied ; better the higher aspirations painfully conscious of a void than the low appetite that had its fill. He believed that in the grossly mismanaged state of our actual world life for most must be a poor thing ; but he claimed that improvements could be made which would render earth a sufficiently good place to live in ; while as to a future world he could attain no conviction that it existed. Meantime he had some remedy for 'the plentiful lack' of that supreme good, happiness, in a valuable discovery, whereby he could lessen its defect : 'Life would be a poor thing if objects originally indifferent could not by association become pleasurable in themselves. There is no original desire of virtue or motive to it, save its conduciveness to pleasure, and especially to protection from pain' ; but these ends after much exercise may be dropped out, leaving virtue valuable for its own sake. And so Mill not only taught but likewise in many ways lived an abstemious, laborious, philanthropic life, so as to have become for utilitarians one of their saints.

Sidgwick made a sketch of the variations in his ethical foundations : it has been prefixed to the sixth edition of his *Methods* :—

(1) I concluded that no complete solution of the difficulty between my happiness and the general happiness was possible on a basis of mundane experience. (2) I was led to abandon the scheme of psychological hedonism and to recognize the existence of disinterested, extra-regarding impulses not directed towards

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<sup>1</sup> Mill may seem at various points to be abandoning empiricism, or even recurring to a moral sense. He says that resentment becomes the virtue of justice when 'moralized by a special sentiment.'

the agent's pleasure. I had become an intuitionist to a certain extent. For the supreme rule of aiming at the general happiness, as I had come to see, must rest on a moral intuition if I am to recognize it as binding at all. (3) I was a Utilitarian again on an intuitionist basis.

Our difference from Sidgwick, at the cost of some repetition, will best appear by a clear statement of our position as against his own, which he admits not to be clear and to be inconsistent. First, we must suppose ourselves gradually to have come to what the Catechism calls 'the use of reason,' and to the position of responsible agents. Then, in our Ethics, as every other science, we shall find ourselves in possession of certain facts and first principles which need no further justification than our now intuitive insight into their truth.<sup>1</sup> Thus it is that certain actions will come before us as elementary and as carrying with them their rightness and in due season their obligatoriness, so that we ought to perform them as duties. In this performance we allow no false philosophy to deprive us of a motive sufficient for the will. The will is masterful : it takes up cases and manages them freely.<sup>2</sup> When something is put before it as the imperatively eligible object out of a number of eligibles, it decides to make the right choice on the strength of its own decisiveness. It may do the like beyond the requirement of stoical duty, in a matter of counsel. We are not machine-like organisms driven in the direction of the impulse that is the resultant of variously tending forces ; we are not mere animals guided as appetites conflictingly issue in action. We do not wait to be determined by the composition of presented motives : rather do we deal actively, freely, and dominantly with them, and go in successful quest of other motives. In this way it is quite believable to us that a saint, at least in particular cases, may not be deceived in saying : So excellent is this act of service to God that for its appreciated excellence I would choose it even though

<sup>1</sup> This is the 'intuition' at which, as old writers would say, Sidgwick boggles. It is the *intellectio* of St. Thomas, 1<sup>o</sup>, 2<sup>nd</sup>, q. 57, a. 2 : the habits perfecting mind are *intellectus*, *scientia*, *sapientia*.

<sup>2</sup> Bergson at least does well to insist on a wonderful power of will whence comes 'l'intensification continuelle de soi par soi.'



I knew that no compensation were ever to come to me for what is a very great self-sacrifice in aid of an undeserving or an ill-deserving neighbour or enemy. Now let us turn to the very opposite philosophy of Sidgwick.

(a) He comes to the problem hampered by a false empiricism. Therefore, when he thinks that on his Utilitarian principle of happiness as the ultimate standard of all moral action he needs the guarantee of a reward hereafter in order to render it reasonable for him to make a sacrifice of self which will get no compensation in this life, he regrets that he can have no experience, assuring him that he will find what he requires :—

I find [he puzzledly argues] that I undoubtedly seem to perceive as clearly as I see an axiom in arithmetic or geometry that it is right and reasonable for me to treat others as I think that I myself ought to be treated under similar conditions. But I cannot find inseparably connected with this condition by mere reflective intuition that there is actually a Supreme Being who will adequately reward me ; or, omitting the strictly theological element in the proposition, I do not find in my moral consciousness any intuition, claiming to be clear and certain, that the performance of duty will be adequately rewarded.<sup>1</sup>

What here is pressed on the notice of the reader is the empiricist's account of how an assurance of future sanctions should be given, namely, by an 'inseparable association,' and 'a mere intuition.' By intuition he means recognition by insight of a moral obligation not reducible to the utilitarian standard of pleasure. He further ignores the normal account of gaining conviction 'that God exists and is the Renumerator.'<sup>2</sup>

(b) And we may notice Sidgwick's inclination towards 'psychological hedonism,' which he professes to have renounced. He quotes, to exaggerate its bearing, Butler's saying : 'When we sit down in a calm moment we cannot justify to ourselves the pursuit of right till we are convinced that it will be for our happiness, or at least not contrary to

<sup>1</sup> *Methods of Ethics*, p. 505, edit. 6.

<sup>2</sup> Heb. xi, 6.

it.' Here he evidently does not feel able to adopt as a means to overcome the difficulty what Mill had proclaimed : ' If it may possibly be doubted whether a noble character is always happier for its nobleness, there can be no doubt that it makes other people happier, and so Utilitarianism demands it.' Yes, Sidgwick would reply, demands it as right in general reason, but not as reasonably imposed upon me as a self-regarding individual, unless what is the standard for the aggregate is not the standard for me. On this point he is clear : ' If we require the individual to sacrifice his own happiness to the greatest happiness of others, on the ground that it is reasonable to do so, we assign him a different ultimate end from that which we lay down as the ultimate good of the universe,' namely, happiness.<sup>1</sup> The meaning is that the reasonably right objectively is not as ultimate as is felt happiness. Dugald Stewart says that only ' experience ' shows the coincidence of ' rational self-love ' with the demand of the ' moral faculty ' for self-sacrifice. Sidgwick, denies that experience so teaches ; if the appeal against him is made to the completed ' long run,' then the usual answer comes that the ' long run ' never is completed until the experimenter is placed by death out of condition to sum up his gathered evidences. This more or less is implied in Aristotle's supposition about the proverb, ' call no man happy till he is dead,' which he wishes to limit to the experience of this world.

(c) We hence see the error of Sidgwick's subjective test. Instead of ruling the choice of his eligibilities by their rank in the scale of moral excellencies taken objectively, his point of reference is to what he supposes to be the dynamics of the will. Though he admits that what he seeks is not ' happiness,' but the objects in which happiness is found, yet he fails to cling tightly to the objective good and to what he calls the *intuition* of certain acts as in themselves right or wrong. He leans overmuch to the assertion of some that the ultimately desirable is a desirable state of consciousness. On the whole he is confused and hesitant

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<sup>1</sup> *Methods*, p. 404.

about the question, concluding his unsatisfactory fourteenth chapter of the third book with the baffled ending: 'I have failed, and am unable to construct any systematic answer. I am finally led to the conclusion that the Intuitionist Method rigorously applied yields as its last result the doctrine of pure Universalistic hedonism—which it is convenient to denote by the single word Utilitarianism.' Especially he spoils his treatment by not giving due value to the common-sense virtues in their elemental character, and he needlessly declares them to rest on tautological arguments when in fact arguments are not strictly in question, but only explanations of one elementary term by the substitution of another equally elementary. The truth is that we see the excellencies of the virtues either immediately or inferentially, and what the intellect approves as objectively good the will can often embrace as such without waiting for a sanction in future rewards or refusing a present sacrifice. The generosity of action largely depends on this indisputable power of the genuine man.

The perplexity felt by Sidgwick usefully calls attention to the familiar argument for a future life drawn from the insufficiency in this alone of sanctions for moral conduct. Is it true that God could leave some virtuous deeds unrecompensed except by the satisfaction of their performance? Could He accept the offer some have made simply to struggle and go on? The question must be treated not on the test of a few isolated deeds but rather of a whole career. In the controversy between Bossuet and Fénelon on disinterested love, during which each side exceeded in the statement of its own case, it was argued that by right of His absolute dominion God could command man's services without any wages—that rewards were all graces on God's part, not dues. No doubt the order of grace and the order of nature were not sufficiently distinguished. In the latter order what is said of man's natural destination to a final beatitude proper to his dignity goes to prove that God owes it to His own perfection to make a virtuous, self-sacrificing life end with an adequate remuneration. God never acts by His dominative power apart from the exigencies of His



other attributes of wisdom and goodness. The extravagance of the opposite opinion was brought out in the doctrine of Hobbes that only by contract did God enter relations of reward-giving to men. 'In the beginning God reigned indeed not only naturally, but also by way of a contract or covenant over Adam and Eve.'<sup>1</sup> The covenant with Abraham for the Promised Land came after Adam's breach of contract.<sup>2</sup> No doubt for such free offers as a continued sojourn in paradise or a possession of some particular territory rich in produce there is need of promise or covenant from God ; but for the general guarantee that man, who has to work out his own salvation, shall be remunerated according to his efforts, God's attributes alone are enough without any positive engagement. The issue might be left to His undeclared will : He could not produce on the lines worked out by Hobbes of sheer power unqualified, an intelligent creature to be treated simply as blind omnipotence enabled Him to act.

#### IV.

It is not unlikely that to some a laboured contribution to show that the ultimate standard of morality must be taken, not from pleasure which cannot be directly valued on a moral estimate, but from conformity to rational nature which can be so valued, will prove irritating, and on that account alone liable to be ineffective, because good temper<sup>3</sup> is a condition of being open to honest conviction. Scornfully Mr. Huxley once gave as his reason for not examining into spiritualistic phenomena the statement that the reported talk from *séances* was trivial as that of curates. This might serve as a hit at curates ; but if it were the only or the chief ground for abstention it was bad. For it would have been a great diminution of the professor's agnosticism, which he declared a regrettable infirmity, to have become assured that there were spirits who after

<sup>1</sup> *De Cive*, cap. xvi. n. 2

<sup>2</sup> *Ibid.* n. 3.

<sup>3</sup> Isaac Todhunter gives it as one of his observations as an examiner that many candidates do themselves harm by lack of better temper.

death could talk, even if their words otherwise furnished but poor information. The preparatory disposition for a grave inquiry is not to be hostile—to be even benevolent and to say, ‘Let us see how it will work to suppose this doctrine true and to seek what arguments can be used to justify the supposition.’

A mind thus disposed will bear patiently to hear a comparison of critical or applied Logic with Ethics. The former begins with the repudiation of radical scepticism, and with the admission that normal men can and do acquire certain objective truths. Any denial of either of these points will be suicidal to their contradictor, rendering him incompetent to argue it at all. So, likewise, in Ethics: we must start not as ethical sceptics; we must admit that we acknowledge the average rules of right and wrong. Aristotle goes further and says that we must have fixed habits of acting rightly. Then if we try, as a standard, the feelings of happiness we soon see that they in themselves will not go far enough as discriminators of right and wrong. But if we take for standard conformity to our rational nature we find that it, when duly understood, will work not indeed to solve, straight-off, all intricate problems of conduct, as ‘the young man in a hurry’ might wish it to do, but at least to show us the substantial nature of the test. Pufendorf, to prove that morality depended on the free will of God, argued that many things are not wrong in the brute beasts which are wrong in man, and even must be so after God has given man reason; but it was God’s free will to endow men with reason. The error here is not to see that if God really creates man He, *ipso facto*, creates a reasonable being, that is, a being essentially of moral constitution. And here is manifest our desired standard of morals. What are called ‘the tiger and the ape elements’ in man are the vices of rapaciousness, cruelty, murder, and lasciviousness. These, as Pufendorf says, are not immoral in beasts, in veritable tigers and apes, because no dictate of reason there forbids them as incongruous with the brute natures: they are immoral in man because of their very positive disconformity with the exigencies or the dignity of his rational nature.

The single example here given is typical of the universal rule and of all the Commandments: it tells why it is right to reverence God, wrong to do Him irreverence; right for children to be subject to parents, wrong to cast off the dependence; right to spare the life of a fellow-man, wrong to do murder; right for husband and wife to keep the marriage fidelity, wrong to be adulterers; right to respect the property of a neighbour, wrong to steal it, and so also of a neighbour's due reputation; right to acquiesce in the possession by another of what fairly belongs to him, wrong to covet it for oneself to whom it does not belong.

True, the above argument does not go to the very root of all difficulties concerning a fixed code of morals; its starting point is something like the assumption of the Ten Commandments. That should be clearly understood, and it is no extravagance of procedure. Even adversaries might admit in it a respectability, and should feel shame in denying our right to work from that ground and to build up a moral edifice on principles of reason which are not those of Utilitarianism or felt pleasure.

JOHN RICKABY



## THE EPISCOPAL SUCCESSION IN ARDAGH

FROM 1220 TO 1541

NOTWITHSTANDING the labours of Lynch, Ware, Cotton, and Maziere Brady, there is considerable confusion and inaccuracy regarding the episcopal succession in the diocese of Ardagh from the thirteenth to the sixteenth century. Thanks, however, to the published *Calendars of Papal Registers* (nine vols.) and the *Annales Hiberniac* (1909) we are now enabled to fill in many lacunæ and to explain many difficulties that had beset the path of Dean Monahan in his admirable *Records of Ardagh and Clonmacnoise* (1886).

Bishop O'Murray died in 1217. His successor, Robert, O.Cist., Abbot of St. Mary's, Dublin, only ruled seven years, and his death is chronicled in the *Annals of St. Mary's, Dublin*,<sup>1</sup> as taking place in 1224, on the 5th of the Kalends of June, he being described as 'vir sanctae conversationis.'

A dispute occurred over the election of a successor, and the canonical Bishop-elect was the Prior of Inchmore, in Lough Gowna. However, Joseph MacGeoghegan presented himself to Primate Netterville, of Armagh, in July, 1226, as Bishop, and received consecration as such. A protracted appeal was the result, and the Pope decided in favour of Simon MacCraith MacSherry, a devout and learned man, in 1229. As there was a dispute at this time over the election of the Archbishop of Armagh, MacSherry was consecrated by the Archbishop of Tuam in February, 1230, but he died ere the close of the same year.

Joseph MacTeegan (or Teahan), called 'Magoday' by Dean Monahan, Archdeacon of Ardagh, succeeded in 1230. He went to Rome in order to have his election confirmed by the Pope, and was there consecrated. However, his episcopate was exceedingly short, as he died at Florence

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<sup>1</sup> *Cartularies of St. Mary's Abbey, Dublin*, p. 288.

on his return journey, in 1231. His successor was a certain Robert, who probably declined promotion, or else who ruled for a very brief period, after whom came Jocelin, a monk of St. Mary's, Dublin, in January, 1233. During the vacancy in the see the Irish capitular electors selected Gilla Isu O'Tormy, who was confirmed by the Primate (Donat O'Feery) in 1232. However, the Pope decided to confirm the election of Jocelin, who was accordingly consecrated, and had his temporalities restored on March 1, 1232-3.<sup>1</sup> This Bishop died in 1237. I cannot say if Gilla Isu O'Tormy is to be equated with Jocelin, but certain it is that the obit of the Bishop of Conmaicne (Ardagh) is given under the former name for the year 1237. Perhaps Jocelin may be another form of Gelasius, which was the usual Latin (or English) equation of Gilla Isu. Here is the exact wording of the entry: '1237. Gilla Iu, son of the Scelaighe [story-teller] O'Tormaigh, Bishop of Conmaicne, in Christo quievit.'<sup>2</sup>

In 1238 Brendan MacGoey succeeded, and ruled for fourteen years. Under date of the Ides of February, 1245, there is a mandate from Pope Innocent IV. to enquire and report about 'the unsavoury deeds of B., who claims to be Bishop of Ardagh.' Evidently some sinister report must have been made to the Holy See regarding this worthy Irish prelate—likely from the English clerics of the diocese—but evidently the Papal commissioners made a favourable finding on the evidence presented to them, for the Bishop appears again in favour not long afterwards. He went over to England early in 1251, and we find him on Whit Sunday of that year granting an indulgence in favour of the Chapel of the Blessed Virgin in the Temple, London. Ware and his copyists tell us that Bishop MacGoey 'reigned for seventeen years and died in 1255'; but we learn from Theiner that on the Ides of October, 1252, Pope Innocent IV. issued a mandate to the Archbishop of Armagh 'to receive the resignation of the Bishop of Ardagh, since the people there are so stiff-necked that he cannot preside over

<sup>1</sup> Sweetman's *Calendar of Documents*, 1171-1251.

<sup>2</sup> *Annals of Loch Cé*, p. 347.

them with profit.' A similar mandate was issued in June, 1253, and the Bishop resigned, and was assigned a pension out of the revenues of the see.

King Henry's influence in 1255 was so strong that he partitioned the kingdom of Connacht, and availed himself of the opportunity to nominate an English monk to the see of Ardagh, in the person of Milo of Dunstable. This nomination must have been made in December, 1255, for on the following 13th of January Bishop Milo writes acknowledging that he had received possession of the temporalities of the see. Bishop MacGoey died some time previously, and was buried in the Abbey of St. Peter, in the barony of Moydoe, known as Abbey Derg.

Milo of Dunstable received the royal confirmation as Bishop on May 20, 1256, with letters of protection during one year from the ensuing Michaelmas. His episcopate lasted for thirty-three years, and he died in 1289, under which date the *Annals of Loch Cé* record his obit as follows: 'The Bishop of Conmaicne, that is, the foreign bishop, whose name was Milo, quievit.'

In December, 1289, the Dean and Canons of Ardagh elected Matthew O'Hoey as Bishop, and the election was confirmed by Archbishop MacMailisu of Armagh. King Edward I., on January 28, 1289-90, accepted the Irish nominee, and restored the temporalities of the see to him. Bishop O'Hoey ruled for thirty-two years. The diocese cannot have been very wealthy, as in the taxation of 1306 the value of the see is given as £38 16s. 8d., of which sum the Cistercian Prioress and nuns of Loughseudy had appropriated churches valued at £12. Bishop O'Hoey's death is chronicled by the annalists of Ulster under date of 1322, and a similar entry is given in the *Annals of Loch Cé*. Ware gives a certain Alexander as his successor, but, as Dean Monahan adds, 'there is no record of the year in which he took possession, nor do the Annalists mention the year of his death.'

Bishop O'Hoey was succeeded almost immediately by a certain Robert Petit, an English Augustinian Canon, S.T.B., and the Pope confirmed the appointment on the Nones of



April, 1323. However, this English prelate never entered on possession, as three months later he was translated to the see of Connor.

In Dean Monahan's *Records* it is stated that 'John Mageoi succeeded in 1331,' but this event must be dated seven years earlier. English influence in Connacht was at an extremely low ebb in 1323, and hence we are not surprised that immediately after the translation of Robert Petit to Connor the Chapter of Ardagh elected an Irishman, John MacGoey (Archdeacon of Ardagh), to that see. This election was confirmed by the Pope on the 14th of the Kalends of April, 1324, and the Pontiff takes care to mention that the appointment had been reserved to the Holy See, yet that he is pleased to ratify the election of said John.

After the death of Bishop MacGoey, in 1433, Ware states that there was a vacancy in the see for three years. This is not so, because towards the close of the same year (December, 1343) the Chapter elected Owen O'Farrelly, Archdeacon, as Bishop. However, for some unexplained reason he was not consecrated till the winter of 1344. Ware says that 'his consecration did not take place before the year 1347,' but inasmuch as this ceremony was performed by Archbishop MacGeraghty, of Armagh, the date must be 1344-5. We are the more certain of this inasmuch as Pope Clement VI. in his brief of confirmation, dated 4th Ides of February, 1352, states that Owen had then held the see 'for eight years or thereabouts,' and had been confirmed and consecrated by the Archbishop of Armagh, 'in ignorance that the see was reserved to the Pope.' Bishop O'Farrell ruled for twenty-two years, and died in 1367.

William MacCasac, a secular priest, succeeded in 1367, and was accidentally killed by a fall from his horse in 1373. His death gave rise to grave dissensions at the election by the Chapter in August of the same year. Some of the electors favoured Cairbre O'Farrell, while others voted for the Dean of the Chapter, Richard O'Farrell, and a third party favoured John Aubrey, O.P., of Trim. The Holy See confirmed the selection of Cairbre O'Farrell, who was accordingly consecrated ere the close of the same year.

Bishop O'Farrell died at Rome in 1378, and his obit is given by the Four Masters, who describe the Bishop as 'a bond for the preservation of piety, the fostering rule of wisdom, a vessel of divine love and humanity.'

John O'Frayne appears as Bishop in 1378, but no details of his rule are forthcoming. On a false report of his death a Dominican friar, Henry Nony, was 'provided' by Pope Boniface IX. to the see of Ardagh, on April 29, 1392, and was duly consecrated. However, Bishop O'Frayne lived two years longer, and his obit is chronicled under the year 1394.

Meantime Dr. Nony, being a Bishop in the Universal Church, sought preferment in England, his native place, and was appointed Suffragan Bishop of Exeter, a position that he held from 1394 to 1404.

After the death of Bishop O'Frayne there was another dispute over the election of a successor, and at length, on October 20, 1395, Pope Boniface IX. provided Gilbert MacBrady to the see. The surname of this prelate is given as 'Gilbert alias Comedinus,' and in the Papal brief he is described as a learned and saintly priest of the diocese of Kilmore, Vicar of Drung and Larah. Bishop MacBrady was consecrated at Rome in September, 1396, and returned to his diocese early in the following year. In 1398 he had some little difference with the Bishop of Kilmore (Nicholas MacBrady) regarding the united vicarages of Drung and Larah, and the Pope ordered the Archbishop of Armagh to compose matters. He died in 1399, and on February 15, 1400, the Pope provided Adam Leyns, O.P., a Papal Chaplain, to the see.

Bishop Leyns (Lynns) ruled from 1400 to June, 1416. His death was tragic, as the Four Masters, under date of 1416, tell us that 'the Bishop of Ardagh, an English friar, was burned to death at Rathaspick.'

After the death of Bishop Leyns, the Chapter elected Cornelius O'Farrell, and on February 17, 1418, Pope Martin V. confirmed the choice of the electors. Dean Monahan, following Ware and Brady, gives Bishop O'Farrell as a 'Dominican friar,' but this error is doubtless due to the

fact that the Bishop was buried in the Dominican Friary, Longford. He was in reality a secular priest, and had been Dean of Ardagh at the date of his election by the Chapter. The Dominican Convent at Longford was founded by the O'Farrell sept, whose castle was in Longford, about the year 1410. Bishop O'Farrell died in 1424, and was buried in the Friary Church.

From the *Calendar of Papal Registers* we learn that Richard O'Farrell, Cistercian Abbot of St. Mary's, Granard, was unanimously elected by the Chapter of Ardagh in ignorance that the Pope had reserved its provision, but the Holy See, on January 10, 1425, while annulling the postulation, 'provided' him to said see, and committed to him the rule and administration of that church. Bishop O'Farrell was at this date in Rome, where he was consecrated in 1425, he being also permitted to hold the Abbey of Granard (Abbeylara, or St. Mary's, about a mile and a half from Granard) *in commendam*. The O'Farrells at this date had regained their pristine power in Annaly, and in 1426 Gerald O'Farrell was assigned the Rectory of Muintir Anghaile, that is, almost the whole of the present County Longford. In 1427 another O'Farrell (Cairbre O'Farrell) was made Vicar of Killashee; and in 1430 the above-mentioned Gerald O'Farrell was made Dean of Ardagh, while John O'Farrell was Rector of Muintir Eolais, a goodly slice of County Leitrim. Some years later, in 1442, Iriel (Hilary) O'Farrell was given the Priory of Inisclothran, in Lough Ree; and in 1443 Walter O'Farrell was given the Archdeaconry of Ardagh, vacant by the death of Cairbre O'Farrell. According to Ware, who is followed by Brady, Bishop O'Farrell died in 1443, but the Four Masters more correctly give the date as 1444.

Bishop O'Farrell's successor was Cormac MacGauran, who was provided to the see by Pope Eugene IV. on November 6, 1444. Brady, following Ware, gives the date as 1445, but the Papal Bull is dated as here given, and, moreover, early in December, 1444, the Bishop-elect was empowered to receive consecration at the hands of any Catholic Bishop of his choice. Dr. MacGauran was at the date of



his election Prior of the Augustinian Priory of Drumlane, diocese of Kilmore, and he is described in the Papal Bull as a learned and holy prelate. No details of his rule are forthcoming, but he must have resigned in 1461, for in January, 1462, we find John O'Farrell as Bishop-elect.

There is a difficulty here as to the canonical succession, as Donal O'Farrell appears in the Papal Registers as the immediate occupant of the see after the resignation of Bishop MacGauran. However, it is probable that the election of John O'Farrell was annulled, for on October 12, 1467, Donal O'Farrell was promoted to the see, then (1467) described as vacant 'per obitum ultimi episcopi.' Archdeacon Lynch, in his MS. History of the Bishops of Ireland, gives Donal O'Farrell as the successor of Bishop MacGauran, but as a matter of fact this prelate was only Bishop-elect, for he died before the Papal Bulls were expedited.

On July 28, 1469, John O'Farrell, Canon of Ardagh, was appointed by the Pope to the vacant see. This prelate was probably the same who had been previously elected by the Chapter. In the Papal Bull the Bishop-elect is warned 'not to alienate any of the immoveable property of the said church or of its precious moveables'—a monition which, doubtless, was not altogether unnecessary during that unhappy period of dissension and internecine conflicts. Bishop O'Farrell died in 1479.

On August 4, 1479, William MacDonogh MacWilliam O'Farrell was promoted by the Holy See to the see of Ardagh. He was Cistercian Abbot of St. Mary's, Granard, and was permitted to hold that Abbey *in commendam*. Some difficulties arose while he was still Bishop-elect, and he proceeded to Rome in 1481. At length, all matters in dispute being smoothed over, he was consecrated in Rome, on June 11, 1482, by the Archbishop of Antivari, assisted by two other Bishops. Six years later the Abbey of Granard was given *in commendam* to Cornelius O'Farrell, and difficulties arose between the Bishop and the Abbot. In fact, it would seem that a regular faction feud between the

numerous septs of the O'Farrells raged during the last quarter of the fifteenth century.

In 1496 Bishop O'Farrell was proclaimed Dynast of Annaly, and he was thus head of the O'Farrell sept. Although noted for learning and piety, he strenuously upheld his rights as Prince of Annaly, and was forced into many a conflict in defence of his temporal jurisdiction. In 1504 he joined the forces of the Lord Deputy of Ireland, the Earl of Kildare, and fought on the side of the Anglo-Irish at the memorable battle of Knockdoe (Cnoc-tuagh.)

Here is a sad picture given of the condition of Ardagh in 1509 by Dean Monahan, who considers that Bishop O'Farrell resigned his see some years before his death:—

He insisted on his rights as Chief-Dynast of Annaly, but some of his own clansmen refused to recognize them. He assembled his forces, assailed and reduced to absolute ruin his opponents, together with the remnant of the little city of Ardagh. The Cathedral shared in the general destruction, so that only the walls remained and one altar, canopied by the azure vault of heaven. There were only four houses remaining in the city, all built of wood, and scarcely any inhabitants, owing to the long continuance of family feuds between the O'Farrell clans. There was neither sacristy, nor belfry, nor bell. The vestments and altar ornaments are described as hardly sufficient for Mass, which was rarely offered up, there being only one priest in the entire district.

Notwithstanding this lurid picture, I am of opinion that Bishop O'Farrell retained his see of Ardagh until his death, which occurred in 1516, according to the *Annals of the Four Masters*.

On December 14, 1517, Rory O'Malone, Canon of the Cathedral of Clonmacnoise, was provided by the Pope as Bishop of Ardagh, in succession to William, deceased. He was recommended to Pope Leo X. by King Henry VIII., on July 26, 1517, and was highly extolled for his many good qualities, but the Holy See needed no royal recommendation, inasmuch as Canon O'Malone was in Rome at that very time, and his merits duly appreciated. Dean Monahan says that the King's request was delayed for

'more than a year,' and he gives the date of the brief as December 4, 1518. However, the Consistorial entry is December 14, 1517, and the Bishop-elect was permitted to retain his canonry of Clonmacnoise.

The O'Farrells were still powerful, for on September 19, 1522, the Pope appointed William O'Farrell as Dean of Ardagh, although only in his nineteenth year! The brief of his appointment was directed to the Prior of Devenish (Clogher), the Dean of Achonry, and Hugh MacNamee, Canon of Ardagh.

Bishop O'Malone died in 1540, or early in 1541, and Richard O'Farrell, last Abbot of Granard, was schismatically appointed by King's letters, on May 2, 1541, and schismatically consecrated in May or June, 1542, having previously received restitution of temporalities. Meantime the Pope, ignoring the appointment of O'Farrell, promoted Patrick MacMahon, a Franciscan friar, as Bishop of Ardagh, on November 14, 1541. It only concerns us at present to add that Bishop MacMahon ruled from 1541 to 1575, when he died. Under Queen Mary he had received the temporalities of the see, and enjoyed them from 1553 to 1558, and indeed until his death. It is well known that Elizabeth did not appoint a Protestant Bishop until 1585, when Lisagh O'Farrell, though never ordained, was given the bishopric.

W. H. GRATTAN FLOOD.



# Notes and Queries

## THEOLOGY

### ALL SOULS' MASSES

REV. DEAR SIR,—Some years ago I was executor to two priests who died early in November, and a brother priest was executor to two others who died about the same time. They were Parish Priests, whom I shall call A, B, C, and D. Priests of a parish usually agree to say a certain number of Masses, suppose one each, every month for the All Souls' Day intentions. The four deceased priests did not and could not say any of those Masses.

1. In A's case no money was bequeathed for Masses. He, as well as the three others, died within a week after All Souls' Day, and certain ecclesiastical consultors decided that, as the executor had the management of deceased's property, he ought to say those Masses himself or get them said. He did neither, as he did not benefit under the will, except 'five pounds to my executor for his trouble.'

2. B left money for Masses 'for my intentions,' which executor thought, from conversations with deceased, were for the repose of his own soul only. Consultors decided that deceased having been a conscientious man, these intentions included those of All Souls' Day, and that therefore the whole of the Parish Priest's All Souls' offering should be included in his assets.

3. C and D left money for 'Masses for my own soul and the souls of my deceased relatives.' In C's case the decision was that the two curates should get fifteen shillings each to supply the twelve Masses, and that the balance should go with the Parish Priest's assets.

4. In D's case it was decided that the whole of the Parish Priest's portion should be divided equally between the two curates, because it is not lawful, when a one pound intention is received, to get it discharged by another for any less sum. The consultors in C's case considered the All Souls' offerings not subject to the same rules as other offerings for Masses, but rather like station offerings, intended for the necessary support of the clergy.

Some priests say the number of All Souls' Masses agreed upon a soon as possible in November. Others spread them over twelve months. Hence this question may arise in any month. Perhaps you would kindly throw some light upon it and suggest some rule to guide perplexed

#### EXECUTORS.

To a great extent the rights and obligations attached to the 'November Offerings' are governed by local laws and customs, and, consequently, can be fully known only from an investigation of the rules which exist in each diocese and locality. At the same time it is not very difficult to find out the general, as distinct from the special, customs of the dioceses where the 'November Offerings' are in vogue. These offerings are not treated as honoraria in the usual acceptation of the term; they are rather of the nature of parochial dues given for the support of the clergy by the faithful on the occasion of the Commemoration of All Souls. To these offerings there is attached an obligation of celebrating a certain number of Masses for the deceased relatives of the donors. This is a personal obligation which the priests of the parish undertake, and which, unlike the Mass *pro populo*, follows the priests who have enjoyed the benefits of the offerings, even when they have been appointed to other parishes. The priests who have a right to these offerings are the priests who are attached to the place when the offerings are made; priests subsequently coming to the parish have no right to any share in the offerings, except in so far as a new Parish Priest has a right to any parochial dues which might have accrued during the vacancy. If any priest, who has got his share of the November offerings, is unable personally to celebrate the Masses, he can transfer them to other priests, and he is bound to give only the ordinary diocesan honorarium.<sup>1</sup> Moreover, the obligation of having the stipulated number of Masses celebrated does not die with the priest who undertook the obligation; like the obligation arising from the acceptance of ordinary honoraria it passes on to his executors and heirs; these are bound to celebrate or have celebrated the required number

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<sup>1</sup> Cf. Lehmkuhl, *Theologia Moralis*, ii. n. 281, 4, ed. II.

of Masses, and the honorarium is the ordinary diocesan honorarium, unless the deceased priest wished a larger amount to be given. Having made these preliminary remarks about 'November Offerings,' in so far as the usual practice of the country is concerned, we are in a position to discuss the cases which our correspondent mentions.

1. The executors were bound in A's case to say the Masses or to get them said, and they could take the diocesan honorarium, or more if they had reason to presume on the will of the deceased, from his assets for the celebration of these Masses.

2. Failing other available assets of the deceased, the executors would act reasonably in presuming that the money left in B's case towards the celebration of Masses 'for my intentions' could be devoted to the fulfilment of the obligation of justice arising from the acceptance of the 'November Offerings,' and the consultors could decide that the testator's intentions included that object. Even if other assets were available the same would hold unless it were absolutely clear that the testator did not wish this money to be spent in this way, since the phrase 'my intentions' of itself could be interpreted as including the obligations of justice to have Masses offered for certain purposes.

3. In C's case the consultors rightly decided that the Masses were to be celebrated for the ordinary diocesan honorarium which the curates received from the assets of the deceased.

4. In D's case the decision of the consultors could be justified either on local rules or on the knowledge or reasonable presumption that the deceased wished that the whole amount of the 'November Offerings' which fell to his lot should go to the curates who celebrated the Masses. Apart from such local regulations, or consent of the testator, the 'November Offerings' would remain amongst the assets of the deceased and the curates would have a right only to the ordinary honorarium.

In fine, we wish again to remind our readers that the obligations and rights attached to the 'November Offerings'



are dependent on local laws and customs, and that we have replied in accordance with the customs which generally prevail.

#### CONDONATION OF A DEBT

REV. DEAR SIR,—I should feel obliged for your solution of the following case :—

Thirty years ago Peter, a farmer, received a loan of £25 from Paul, a gentleman living near, who was friendly disposed towards him. The only condition was that Peter should pay 5 per cent. interest. After some years Paul left the district, but the interest was paid to him until his death five years ago. Since then no application has been made to Peter for principal or interest, though Peter has reason to know that Paul made a will.

Is Peter justified in assuming that Paul did not wish to enforce payment of this debt, as Paul never demanded payment during his life, and evidently left no statement which would enable his heirs to demand payment after his death ?—Yours truly,

C. C.

The considerations mentioned by 'C. C.' are not sufficient of themselves to give proof or presumption that the debt was condoned, but they supply reasons for further investigation. Of their nature they are negative rather than positive, and as such do not give sufficient guarantee that Paul intended not to demand payment for himself or his heirs. Further investigation—such as an examination of the will, a copy of which can easily be procured—might reveal something which would show positively that Paul intended to condone the debt ; apart from such additional evidence we think that there is an obligation of justice to pay both principal and interest to the heirs of the deceased.<sup>1</sup>

#### SPONSALIA

REV. DEAR SIR,—Am I right in assuming that since the decree *Ne Temere* the impediment of 'Honestas Publica' is no longer a diriment one, or, in fact, an impediment at all, unless the espousals be committed to writing like other 'sponsalia de

<sup>1</sup> Cf. Tanquerey, *De Virtute Justitiae*, n. 606.

futuro' ? But how does the matter stand as regards 'matrimonium ratum, sed non consummatum' ? Is it, too, affected by the *Ne Temere* decree ?—Yours,

C. C.

Our correspondent is correct in stating that the diriment impediment of public propriety does not arise from informal espousals in the case of those who are bound by the decree *Ne Temere* ; that is expressly laid down in the decree. In regard to public propriety arising from 'matrimonium ratum non consummatum,' the decree *Ne Temere* has made only one change in the pre-existing law. In the case of a marriage which had the external appearance of a true marriage, and which was invalid on account of nonage, the impediment extended to the first degree, since *de jure* such a marriage was regarded as espousals. In future this provision of the law disappears on account of the necessity of a formal document for valid espousals, and the impediment does not arise at all. This, at least, seems to be the common teaching of commentators.<sup>1</sup>

#### BEQUESTS FOR MASSES

REV. DEAR SIR,—May I ask you to solve the cases I have stated on enclosed sheet. If you care to print the cases and your views in the I. E. RECORD I can assure you your words will be read with much interest by many of its readers.—Sincerely yours,  
AARON.

I. Thirty pounds are left as a bequest for Masses to be said by a certain religious community. The lawyer comes immediately his client dies and acquaints the Father Prior of the will, and asks that half the Masses be said at once, and says the honorarium is 3s. 4d. The Prior consents, and has ninety Masses said. After ten months have passed the lawyer returns, bringing £30, and saying he had made a mistake in naming 3s. 4d. as the honorarium, which in reality is 3s., adding that he and the relatives of deceased had agreed the Masses said should remain at 3s. 4d., but that the other half of the bequest was to be for Masses

<sup>1</sup> Cf. Lehmkühl, *Theologia Moralis*, ii. n. 1003, ed. 11 ; Wernz, *Jus Decretalium*, vi., ed. 2, p. 137 ; Desmet, *De Sponsalibus et Matrimonio*, n. 311.

at 3s. Is the Prior bound to supply Masses so as to have all the honoraria 3s. ?

II. Mary is sister and sole executrix of Thomas, who has died bequeathing £5 for Masses for his soul, and making no mention of a honorarium. Mary immediately goes to the Presbytery and insists that the priests are free to fix the number of the Masses, only suggesting some might be said soon—even before the money is forthcoming. The diocesan statutes lay down half a crown as stipend in case no sum is fixed and the bequest does not exceed £100. One of the curates to whom the Parish Priest gives £3 out of the £5 says 18 Masses, using the liberty given by the executor.

(1) Is he justified in so doing ?

(2) Under the diocesan statute mentioned, is there any room left for discretion on the part of priests and executors ?

In the execution of a bequest the will of the testator must be taken as the guiding principle. Those who carry out the provisions of the will have no power to follow their own inclinations ; they have simply to adhere to the last wishes of the deceased. If they depart from this plain duty they are responsible for any loss or injury that arises from their neglect, and this responsibility binds *ante sententiam* if their action is subjectively culpable.

I. These principles make it clear that, in the first case, 200 Masses must be said for the £30, since the lawyer's second statement presumably gives the true version of the testator's intention ; at least our correspondent alleges nothing that in any way shows that the honorarium intended by the deceased was more than 3s. for each Mass. The Prior need not have the remaining 110 Masses celebrated if he prefers not to accept the part of the £30 which corresponds with these Masses (£16 10s.), but if he accepts the whole amount of the bequest he is bound to the Masses according to the wishes of the testator. The lawyer or relatives of the deceased had no power to change the known intentions of the testator, and could not therefore make the honorarium 3s. 4d. for each Mass. The lawyer originally made a mistake, and if the Prior suffered any loss from that error, his claims would lie, not against the assets



of the deceased, but against the lawyer. The Prior would have suffered loss if, for instance, he transferred some of the honoraria at the higher rate, or if, having larger honoraria, he would not have accepted the bequest at the rate of 3s. For such loss the lawyer would be responsible—*ante sententiam* if he were subjectively culpable, and *post sententiam* if his error was not so culpable. We presume that the lawyer acted *bona fide*, and therefore that he is not responsible *ante sententiam*.

II. (1) The priest was justified in saying only 18 Masses for the £3, because the executrix could reasonably be presumed to have had definite information about the intentions of her deceased brother.

(2) The diocesan statute does not prevent the priest or executors from interpreting the intention of the testator in accordance with the evidence of the case. All that the diocesan statute implies is that, failing evidence as to the wishes of the testator, the honorarium is to be 2s. 6d.; it does not exclude a larger honorarium when there is positive reason for saying that the testator intended this larger stipend. Such positive evidence can be had in many ways, as, for example, from the oral statements of the deceased, or from his ordinary custom of giving a larger honorarium. If the testator, during lifetime, were accustomed to give a larger stipend, and if he did nothing in contradiction of this custom, the larger honorarium could be taken as in accordance with his last intentions.<sup>1</sup>

J. M. HARTY.

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<sup>1</sup> Cf. Pasqualigo, *De Sacrificio Novae Legis*, q. 933; Gennari, *Quaestiones Teologico-Morali*, q. 521.

## CANON LAW

## SOME CONDITIONS FOR INCARDINATION

REV. DEAR SIR,—In the course of a theological discussion, at which I was present recently, a question arose as to the conditions required for valid incardination. The general feeling seemed to be that according to Canon Law, or at least according to its interpretation by custom in this diocese, a priest becomes affiliated if the Bishop retains his services for a longer period than three years. Some were strongly of opinion, however, that an express acceptance by the Bishop is essential, and were inclined to think that the agreement should be in writing. The question, I need hardly say, is of great importance for priests who are serving on the mission here. Some of them have been attached to the diocese for over ten years, and it would be very strange if, after all these years, their services might be dispensed with any day. You would do me a great service by giving your opinion on the following points in the next number of the I. E. RECORD :—

- (1) Must there be an express acceptance by the Bishop?
- (2) If so, must the agreement be in writing?
- (3) If general Canon Law requires such a written agreement, what is to be said about the custom that seems to hold, in this diocese, of having priests affiliated *ipso facto* as soon as they have completed three years' service on the mission?

SCOTUS.

Before July 20, 1898, it was the practically universal teaching that a cleric might be incardinated without any written agreement whatever. A few writers, it is true, seemed to speak of the necessity of a formal document<sup>1</sup>—mainly with a view to judicial evidence later on, if the facts came to be disputed—and we find an apparent confirmation of their teaching in the statement of the *Monitore Ecclesiastico*, made before the date mentioned, that 'the decree of incardination should be notified to the cleric incardinated and to the clergy among whom he is adopted.'<sup>2</sup> But the obligation, if it existed at all, was one of prudence, not of law. The opinion in favour of the validity of a mere oral

<sup>1</sup> e.g., Ferraris, *Biblioth.*, verb. 'Testimonialis,' n. 16; Reiffenstuel, l. 3, tit. 29, n. 11, etc.

<sup>2</sup> Vol. viii, part 2, p. 275, note d.

incardination was so strong that the official commentator on the *Acta Sanctae Sedis* was able to state unconditionally, as a result of several Roman decisions, that 'according to the older legislation, in addition to the written, there was in force also an oral, in fact an equivalent or implicit, incardination, which held good whenever there was certainty regarding the intention of both Bishops, in the one case to dismiss, in the other to accept, the cleric perpetually and without condition.'<sup>1</sup> And the matter is, to our mind, put beyond doubt by a decision to which we shall refer later on.

Now, as to what would constitute an 'equivalent' or 'implicit' incardination, no general rule can be laid down beyond the one already given by the commentator referred to. It would depend chiefly, of course, on the intention of the two Bishops concerned, and, in case no satisfactory evidence could be produced on that point, on the statutes and customs of the particular locality. If it were clearly understood that the cleric was to return to his own diocese after a time, and that the acceptance of his services by the extern Bishop was merely temporary, a residence of three years, or in fact of any number of years, would not, of course, imply adoption. But if the understanding were that he sought adoption into the new diocese and was accepted for a time on approbation, it might easily happen, in virtue of particular statutes or custom, that he would become incardinated after a certain period by the mere fact of his services being retained, even though no explicit reference were made to the subject by either Bishop.

Whether such a custom or law existed in the particular diocese with which our correspondent is concerned we cannot say. We do not know what diocese it was, and, even though we did, it is not always easy for an outsider to find out what the particular statutes of a diocese are, or, still more, to come to any satisfactory conclusion regarding the customs. But we have trustworthy evidence regarding one

<sup>1</sup> Vol. xxxix. p. 211, n. 2 : 'Veteri iure, praeter scriptam incardinationem etiam oralis, imo et acquipollens seu implicita incardinatio in usu erat, dummodo certe constaret de voluntate utriusque Episcopi clericum perpetuo et absolute dimittendi cumque item perpetuo et absolute recipiendi.'



place in which such a law certainly did exist, and it will be sufficient to see what happened there and apply our conclusions to the case before us.

The Third Plenary Council of Baltimore (A.D. 1884) defined the practice for the United States<sup>1</sup> :—

Since it often happens [the Fathers state], for one reason or another, that a priest who is attached to one diocese by ordination wants to go to another, or that a Regular, who is freed from the obligations of his Order, seeks to be enrolled among the secular clergy, it seems to us well to settle a definite method according to which a priest, in our provinces, is to be incorporated among the diocesan clergy. We decree, therefore, two forms of incorporation or (as it is generally called) incardination, 'formal,' namely, and 'presumed.' 'Formal' we declare to be that which is effected by the act, documentarily sealed, of the Bishop who enrolls among his own clergy a priest of another diocese, it being supposed that the latter brings and exhibits letters, commendatory and excommunicating, of his own Bishop. This enrolment is not to take place as soon as a person asks to be admitted into a diocese, no matter by what title he has been ordained. The Bishop will test him for a time by allowing him to discharge the duties of the sacred ministry within a period of three years, looking in the meantime for particular information from the Bishop of the diocese from which he has come. He may, however, insist on a term of probation longer than three years, but not longer than five, and in this case he must, before the three years expire, notify to the priest, in writing, his intention of insisting on a longer period.<sup>2</sup>

After stating that, in certain cases, this term of probation may be entirely or partially dispensed with, and after laying down special rules regarding Regulars and priests ordained *titulo missionis*, they proceed to state what is meant by 'presumed' incardination.

We declare [they say] that there is presumed incardination when, after the lapse of the probationary term of three years, or of five as the case may be, the Bishop omits the formal act of enrolment. For whoever, after the lapse of that time, neither

<sup>1</sup> *Conc. Plen. Baltim. III., Acta et Decreta*, nn. 62 sqq.

<sup>2</sup> *Ibid.*, n. 63 : 'Formalem declaramus eam esse, quae per actum Episcopi documento signatum efficitur,' etc.

formally admits, nor openly and expressly refuses to admit, a cleric who has sought admission to the diocese, is by law presumed to have enrolled him.<sup>1</sup>

For fourteen years that continued to be the law in the United States. But the Congregation of the Council had in the meantime taken up the whole question of incardination, and, on July 20, 1898, with the approval of Pope Leo XIII., issued the decree *A primis*, which declared, among other provisions, that 'incardination is to be effected by the Bishop not orally but in writing'; '(statuit) incardinationem faciendam esse ab Episcopo, non oretenus sed in scriptis.'<sup>2</sup> The discrepancy between the two decrees was clear enough, and the question arose whether the Baltimore arrangement had been abrogated by the new law. The Apostolic Delegate at Washington wrote to the Propaganda, quoting both laws and inquiring whether '(1) in virtue of the decree of the (Congregation of the) Council, which requires incardination in writing, the decree of the Council of Baltimore, which admits presumed incardination, has been annulled; and, if so, whether (2) the new law is retroactive in its effects, (that is) as regards cases in which the probationary terms of three or five years had expired before the publication of the decree of the Sacred Congregation of the Council.'<sup>3</sup> The Propaganda submitted the matter to the Congregation that had passed the law. In the discussion that followed various opinions were, of course, expressed. As affecting the value of the Baltimore law, it was urged by some that it was not entirely beyond doubt that, even before the decree of 1898, an oral incardination would be valid. On this point, however, the

<sup>1</sup> Ibid., n. 66: 'Praesumptam incardinationem haberi declaramus si Episcopus elapso triennio vel respectivo quinquennio probationis actum adscriptionis formalem omiserit. Qui enim, eo elapso tempore, clericum qui dioecesi adscribi petierat nec formaliter admittit nec admittere plane disserteque recusat iure presumitur adscripsisse.'

<sup>2</sup> *Acta S. Sedis*, xxxi. p. 49.

<sup>3</sup> 'Si domanda si in forza del detto decreto del Concilio il quale richiede l'incardinatione *in scriptis*, sia restato annullato il citato decreto del Conc. di Baltimora, che amette l'incardinatione *presunta*: ed, in caso affirmativo, se dettā legge abbia vigore retroattivo riguardo a casi quando il triennio vel quinquennio di prova . . . sia già spirato prima dell' emunazione del citato decreto della S. C. del Concilio.'—*A. S. Sedis*, xxxix. p. 489.

arguments of the opposite side were regarded as of much greater weight. In favour of the continuance of the Baltimore law even after the publication of the decree *A primis*, the principle was quoted that 'a general law is not supposed to abolish or revoke reasonable customs and particular statutes unless the opposite is clearly stated.' But the answer was given that 'the words of the *A primis* decree are absolute and sufficient to abrogate any other method of incardination; that the purpose of the law (viz., to remove all difficulties, strife and abuses) pointed to the same conclusion; that, finally, the new decree contained the special abrogating clause *contrariis quibuscumque non obstantibus*.' On this basis the answer of the Congregation, given on September 15, 1906, was, 'ad I., affirmative; ad II., negative.' The decree of Baltimore, therefore, ceased to have any binding force after the date of the decree *A primis*, but the oral or presumed incardinations that had taken place under the old regulation were held to be valid and independent of the new decree.

The answer to 'Scotus' query will be based on the same principle. Local customs and statutes must share the fate of the Baltimore law. If, before July 20, 1898, there was unquestionably an oral incardination, or if in the diocese to which he refers there was a custom or statute (such as the law of Baltimore) sanctioning 'presumed' incardination, and the fixed period had elapsed before that date, the incardination is certainly valid. Apart from these circumstances, and in all cases since the date mentioned, the incardination will not be regarded as valid unless it has been in writing.

#### BLESSING OF CEMETERIES

REV. DEAR SIR,—Is it permissible to bless a cemetery which is not Church property, but in which only Catholics will be buried?

SACERDOS.

According to the general spirit of ecclesiastical legislation, based on the custom of the faithful from the earliest



times,<sup>1</sup> no place should be used as a cemetery for Catholics unless it has been blessed. It will be sufficient to recall, in this connexion, the words of the Roman Ritual:—

No Christian who has died in the communion of the faithful ought to be buried elsewhere than in a church or cemetery duly blessed. If circumstances necessitate the adoption of a different course for a time, care must be taken that, as far as practicable, the body be transferred to a sacred place at the first opportunity.<sup>2</sup>

The principle, therefore, that cemeteries should be consecrated or blessed will hold in all cases except, of course, when the inconveniences attached become very serious. In the case given by our correspondent, in which it is quite clear that Catholic claims will be respected in the future, there is practically no inconvenience whatever. The land, it is true, does not belong to the Church, but blessings are imparted every day to things that never belonged to the Church and never will. In virtue of the blessing the graveyard, we grant, becomes a 'locus sacer' and the Church should *per se* have full jurisdiction over it, but it is quite clear, as we shall see, that the Church authorities are prepared to tolerate a certain amount of extern control rather than face the inconvenience of having the place remain unblessed. There is just the bare possibility that the public authorities that own the graveyard may at some time or other develop an intolerant spirit, and run counter to the wishes of the Catholic Church and their present agreement to have only Catholics buried in this particular place. But the probability is sufficiently remote to be disregarded in settling practical problems in a practical way.

It may be instructive in this connexion to glance at the practice in countries like France and Belgium, where the difficulties encountered in carrying out the prescriptions of Catholic ritual and Canon Law are much more serious than in the case submitted by our correspondent.. The public authorities are in many localities opposed to having cemeteries blessed in any circumstances, even when the population is

<sup>1</sup> Cf. Moulart, *De Sepult.*, p. i. c. 3.

<sup>2</sup> Tit. vi. c. 1, n. 18: 'Nemo Christianus in communione fidelium defunctus extra ecclesiam aut coemeterium rite benedictum sepeliri debet.'

exclusively Catholic.<sup>1</sup> On the principle of so called 'liberty of worship' they require that all new cemeteries shall be public, that is, that they shall be at the service of all denominations whatever.<sup>2</sup> The inconveniences arising from this regulation are obvious. If a burial place of the kind were once blessed the Church authorities would be bound by Canon Law to exclude all heretics, excommunicates, and even persons of notoriously bad life who had lived and died in communion with the Church. They could hardly hope, in the present circumstances of the country, to triumph over the civil legislation in this respect, and the result would be a series of burials in opposition to the Church's wishes, many of them entailing a pollution of the cemetery.

In these circumstances various policies are adopted. Where there are several denominations and the law requires that there shall be no separate part marked out for each, Catholics must take things as they are, and content themselves generally with blessing each grave separately when the occasion arises. But when the inconveniences are not so great, when, for instance, all the people of the locality are Catholics, or when, though there are several denominations, Catholics have in practice the exclusive use of one of several cemeteries or of a particular portion set apart in one, the practice is to bless the graveyard, the whole or the particular part as the case may be.<sup>3</sup> And whenever doubts were raised and the matter referred to Rome, the answers were in approval of the practice. For instance, the Belgian Bishops were encouraged by the Congregation of the Inquisition, on July 8, 1874, to 'continue to preserve the Catholicity of the

<sup>1</sup> Many, *De Loc. Sacr.*, n. 242.

<sup>2</sup> Cf. ' . . . Sans qu'il soit permis d'établir des distinctions ou des prescriptions particulières à raison des croyances ou du culte du défunt, ou des circonstances qui ont accompagné sa mort.'—*Loi municip.* (1884), art. 97, § 4.

<sup>3</sup> Cf. Many, *ibid.*, pp. 242-3: 'Si non sint adeo timenda incommoda de quibus modo' (he had spoken of cases in which the place was held in common by several denominations), 'et municipium aut gubernium non prohibeat benedici coemeterium, episcopi curare debent ut benedicantur publica coemeteria.' It is to cases of this kind that Ojetti's rather broad principle is to be understood to apply: 'Tunc quoque benedicendum est, si fieri potest, quum civile gubernium, spreto catholicorum iure, inique permittit ut in eo ii quoque tumultentur qui ecclesiastica sepultura privari debent.'—*Synop. Rer. Moral.*, I, p. 936.

cemeteries in the same manner as had hitherto been laudably followed, and to see that new cemeteries should as far as possible be blessed'; 'quod pergant protueri catholicitatem coemeteriorum eodem modo hucusque laudabiliter observato, et quod nova coemeteria curent pro posse ut benedicantur.'<sup>1</sup>

The circumstances in the case submitted by our correspondent are no worse than those in Belgium: in many respects they are infinitely better. There is no very strong reason, therefore, why the injunctions of the Roman Congregation may not be followed and the general spirit of Canon Law enforced.

M. J. O'DONNELL.

## LITURGY

### WHEN THE CROSIER INDULGENCE MAY BE GAINED

REV. DEAR SIR,—You will oblige by answering in the I. E. RECORD the two following queries:—

1. I assume that the Crosier indulgence and the Dominican indulgence can be attached to the same beads. If I am correct in this assumption, can a person using such a beads and saying on it in the manner prescribed (reflecting on the mysteries) five mysteries of the Rosary gain both indulgences?

2. Can a priest who holds in his hand a beads with the Crosier indulgence attached to it gain the 500 days for the *Patens* and *Aves* of the divine Office?

A SUBSCRIBER.

1. Our correspondent is quite correct in his assumption, and while it is generally true that two sets of indulgences cannot be gained simultaneously by one and the same act *in individuo* (provided it can be repeated on the same day),<sup>2</sup> an exception has been made in favour of the Crosier indulgence. This query was actually answered in the *negative* by the Sacred Congregation of Indulgences in the year 1907; but it was stated at the same time that application would be made to the Holy Father to grant the privilege, and he did so on the 12th of June of that year. The only

<sup>1</sup> T. ix., part 2, p. 185.

<sup>2</sup> *Decreta Authentica*, 249, ad 3.



conditions imposed were those indicated in the query, namely (a) that the Rosary be recited in the manner prescribed for gaining the Dominican indulgence; and (b) that both indulgences have been attached to the beads.

2. Among the conditions regarding the 'opera implenda,' it is laid down<sup>1</sup> that, without a special indult from the Holy See, a work or prayer already of obligation cannot be availed of at the time the obligation is being fulfilled for the purpose of gaining an indulgence. It is quite reasonable that in order to gain such a favour a person should do something to which he is not bound. Concessions to the contrary, however, are sometimes granted. For instance, according to a decree of 1901, the prayers or good works imposed as a sacramental penance may also serve to gain any indulgences which may be attached to them. But we can find no evidence that such a concession has been made for the case mentioned in the second query.

#### NUMBER OF PRAYERS IN A NUPTIAL MASS ON A FEAST OF DOUBLE RITE

REV. DEAR SIR,—Would you kindly state in the next number of the I. E. RECORD how many prayers must be said in a Nuptial Mass celebrated on a feast of double rite? In the *Missa pro Sponso et Sponsa* there is no mention of any commemoration; some maintain that there should be a commemoration of the double only; while others hold that three prayers should be said.—Yours,

DUBIUS.

The general regulations regarding the Nuptial Mass have been rather exhaustively set forth in two decrees<sup>2</sup> of the S. Congregation of Rites. From the latter of these, issued in the year 1896, we may quote the following paragraph: 'Eadem missa (sc. pro sponso et sponsa), cum sit Votiva privata, semper celebranda est, etiam si fiat in cantu, sine *Gloria in Excelsis* et sine *Credo* et cum tribus orationibus: 1<sup>a</sup> scilicet ejusdem missae votivae propria; 2<sup>a</sup> et 3<sup>a</sup> diei

<sup>1</sup> Cf. Beringer, vol. i. p. 89.

<sup>2</sup> 2582 and 3922, vi.

occurrentis ut in Rubr. Tit. vii. Num. 3. *De Commemorationibus.*' There is no distinction here between double feasts and those of lower rite; and hence authors generally state that the second prayer is that of the feast and the third, if there is no special commemoration, is to be taken from the general commemorations prescribed for the particular season of the year. Of course the first one of the two given is to be selected for this purpose.

Of recent years, however, doubts have been raised regarding the number of prayers to be said when the feast is a double. It has been felt by some liturgists that the double should make its influence felt in limiting the number of prayers, so that if there is no special commemoration on that day a third prayer *de Tempore* need not be added. Some colour was given to this contention by an answer given to the Franciscans in the year 1905, from which it appears that in the Votive Mass of the Immaculate Conception, which they have the privilege of saying on a Saturday even though a double feast occurs, the double only is to be commemorated. The same rule, it is argued, should apply to the Nuptial Mass, for the two cases are perfectly parallel.

On the other hand it is maintained<sup>1</sup> that the answer given to the Franciscans is intended for them alone and cannot be further extended; that a double can have no effect on the number of prayers in a Mass said *extra ordinem officii*; that, finally, the Nuptial Mass has been unequivocally declared a private Votive Mass with three prayers—no matter what may be the rite of the Office for the day. This opinion is manifestly better founded, and hence we should say that, in practice, three prayers should be said. It is only fair to add that the Congregation of Rites seems to be doubtful about this very point, and is perhaps contemplating a change in the rule hitherto understood to be obligatory. In consequence of the controversies that had arisen the Congregation was asked: 'An in missa votiva pro sponsis celebranda in duplici majori vel minori, post com-

<sup>1</sup> *Ephemerides Liturgicae*, 1906, p. 416.

memorationem hujus duplicis, sit tertio loco addenda oratio de Tempore? ' But the answer simply was 'Dilata' (March 31, 1909). Even from this answer each side will draw conclusions favourable to itself; but it seems better to hold that the old rubric stands until a definite answer to the contrary is given, and that this answer simply means that a change is in contemplation.

**LAWFULNESS OF A REQUIEM MASS WHEN THE INTENTION IS UNKNOWN, OR EVEN 'PRO VIVIS'—PRAYERS TO BE SAID IN SUCH A CASE. THE PROPER NOCTURN TO BE RECITED ON THE 'DIES DEPOSITIONIS' AND MONTH'S MIND**

REV. DEAR SIR,—Might I trouble you to answer, at your convenience, the following questions:—

1°. I not unfrequently receive a stipend with a request to say a Mass for the intention of the donor. I have no means of knowing whether the Mass is *pro vivis* or *pro defunctis*. Am I at liberty in such a case to say a Requiem Mass if the rite allows it? I have also heard it stated that a priest is free to say a Requiem Mass even though he knows that the intention is *pro vivis*. Is this statement correct?

2°. If the answer to the former is in the affirmative what prayers are to be selected? Might a priest say, e.g., the first prayer *pro uno defuncto*, having some individual before his mind, but without the intention, of course, of applying the Mass for his benefit?

3°. When only one Nocturn of the Office for the Dead is said on the *dies depositionis*, or at the Month's mind, is there any rule regulating the Nocturn to be selected, or are we to follow the rubric given before each Nocturn?—Yours sincerely,

JUNIOR.

1. With the theological aspect of the first query we are not directly concerned, though of course it underlies the answers we are about to quote. We may, however, be permitted to point, in view of a term used in one of the answers, that in discussing the fruits of the Mass and their application some perplexity may be caused by the different terminology used by theologians. Some writers apply the words 'fructus specialis' to designate that fruit which it is in the power of the priest to apply according to his intention,



while others call it the 'fructus ministerialis' or 'fructus medius.'

The following questions were proposed to the Congregation *De Propaganda Fide*, and answered on October 13, 1856 :—

1°. An liceat sacerdotibus uti paramentis nigris et celebrare missam de Requie secundum intentionem dantis, quando prorsus ignorant quaenam sit illius intentio, pro defunctis necne ?

2°. An liceat sacerdotibus uti paramentis nigris et celebrare missam de Requie ut satisfaciant obligationi quam suceperunt, celebrandi *pro vivis*.

Resp. Ad I. Affirmative.

Ad II. Affirmative, modo non diverse praescripserit qui dedit eleemosynam.

These questions and answers are not to be found in the *Decreta Authentica S. C. Rituum*, for an evident reason, but they place the matter under discussion beyond all manner of doubt.

It may also be of interest to quote an answer of the Congregation of the Council which at first sight will perhaps seem strange enough, but which is after all only another deduction from the theological teaching concerning the fruits of the Mass. The question was this : 'An sacerdos in exequiis persolvendis missam celebrans, non recepto stipendio, debeat pro ipso defuncto, vel potius pro aliis petentibus et eleemosynam offerentibus sacrificium applicare debeat ?'

Here was a question involving the approval or disapproval of what one would be inclined to stigmatize as a very shady transaction. The reasons *pro* and *con* were discussed at considerable length and may be seen in the *Acta Apostolicae Sedis*.<sup>1</sup> However, the answer was : 'Negative ad primam partem ; affirmative ad secundam' (April 27, 1895).

Moreover, the following comments are appended (*ibid.*) :—

Ex quibus colliges :

I. Aliud esse celebrare missam, aliud applicare missam.

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<sup>1</sup> Vol. xxviii. pp. 125-5.

II. Sacerdotem posse applicare fructum medium missae pro iis a quibus eleemosynam recepit, etiam pro vivis, quamvis nigris indutus paramentis.

III. Et ideo sacerdos in exequiis persolvendis pro defuncto, sicuti in celebratione nuptiarum, non obligatur applicare missam pro eodem defuncto vel pro sponsis, si ad id stipendium non acceperit.

These very definite answers ought to be sufficient to satisfy the most scrupulous conscience.

2. There is no decree or answer bearing precisely on the prayers to be said in these cases. It is, however, ordered<sup>1</sup> that when a Mass is said *pro defunctis in genere* the prayers must be those found in the *Missa Quotidiana*; and it seems to be the opinion of those<sup>2</sup> who have discussed the point that this rule is also to be applied when the intention is unknown or the Mass is celebrated *pro vivis*. Though the reasons for this opinion are not so clear it would not be well to adopt any other in practice until an authoritative decision has been given.

3. It is quite certain (a) that on the *dies depositionis* the first Nocturn should be said, no matter on what day the office is held; and (b) that in all other cases, even on privileged days, such as the month's mind, the proper Nocturn is that which corresponds to the feria occurring. There are several answers of the Congregation on this matter, but it will be sufficient to quote the following<sup>3</sup>:—

'Ex consuetudine unum tantum Nocturnum in exequiis canitur: licetne primum semper assumere? an debet illud potius cani quod Feriae occurrenti respondet? Resp. Canendum Nocturnum Feriae occurrentis; nisi sit dies obitus, in quo servandum rituale.'

THOMAS O'DOHERTY.

<sup>1</sup> Decreta 3920, iii.: 'Orationes esse dicendas quae pro missis quotidianis in Missali prostant; eodemque ordine quo ibi sunt inscriptae.'

<sup>2</sup> Cf. *Ephemerides Liturgicae*, 1906; Van der Stappen, vol. ii. q. 322, 7°.

<sup>3</sup> 369r ad 3. Vide also Van der Stappen, vol. iv. q. 280.

## DOCUMENTS

### ST. PATRICK'S DAY A HOLIDAY OF OBLIGATION

5670  
II

S. C. CONCILII, 21 NOV. 1911

*Beatissime Pater.*

Archiepiscopi et Episcopi Hiberniae humillime petunt ut dies festus S. Patritii, totius Hiberniae patroni, 17 Martii, inter dies festivas de praecepto in Hiberniae servetur.

Die 3 Novembris 1911, S. Congregatio Concilii auctoritate Sanctissimi D. N. Pii PP. X. attentis expositis, gratiam juxta petita benigne impertita est.

C. CARD. GENNARI, *Praef.*

B. POMPILI, *Secretarius.*

### LETTER OF HIS HOLINESS POPE PIUS X. TO THE BISHOPS OF BRAZIL

#### EPISTOLAE

AD V. E. IOACHIM S.R.E. PRESBYTERUM CARDINALEM ARCOVERDE CAVALCANTI, ARCHIEPISCOPUM S. SEBASTIANI FLUMINIS IANUARI CETEROSQUE ARCHIEPISCOPOS ET EPISCOPOS BRASILIAE, DE INCREMENTIS REI CATHOLICAE PER BRASILIAM POST AUCTAM HIERARCHIAM, DEQUE PRAESIDIIS QUIBUS PASTORES ANIMARUM IN SACRO MINISTERIO VEL UTILIUS VERSARI POTERUNT

Dilecte fili noster et venerabiles fratres, salutem et apostolicam benedictionem.—Quod hierarchia catholica per Brasiliam non paulum incrementi nuper accepit, habenda est nempe primum omnium gratia auctori et propagatori Ecclesiae Deo, qui consiliis curisque Sedis Apostolicae, pro istius christiani populi salute susceptis, prosperos successus dederit. Tum vero aequum est meritas easque singulares vobis vestrisque civibus laudes tribuere. Opus enim agebatur maximae aequae opportunitatis et difficultatis : quod certe adduci non potuisset ad exitum, nisi et sacrorum Antistitum praeclarum studium atque constantia, et populi ad conferendum in commune insignis largitas, et eorum, qui rempublicam gerunt, amicus animus adfuisset. Itaque universo



ordini vestro, Venerabiles Fratres, omnique Brasiliae catholicae plurimum gratulamur: sed illud praeterea valde velimus—quod sane optabile est omnibus, quicumque Brasilianum nomen, iuventa validum gloriaque florens, diligunt—ut in hoc eodem genere ea fiat progressio, quam ipsius reipublicae explorata utilitas requirit. Etenim amplificandis Hierarchiae ordinibus augendoque numero sacra ministrantium, id scilicet recta efficitur, ut hominibus, in tanta regionum immensitate diffusis, ampliora quaedam, uti necesse est, ad conformandos religione animos et mores praesidia suppetant: at hoc ipso saluti Civitatis melius prospicitur. Nam eos revereri qui praesunt, civilem servare disciplinam, paci et tranquillitati studere, haec et talia sunt catholico homini officia religiose servanda. Ubi igitur huiusmodi cives, professione et instituto vitae catholici, fuerint frequentiores, non ab iis quidquam timendum erit Reipublicae, imo vero optimum incolumitatis stabilitatisque subsidium exspectandum.

Atque hi, quos dicimus utilitatis fructus ex Hierarchiae incrementis naturâ exsistere, iam apparent. Quod enim aliunde acceperamus, hoc Venerabilis Frater qui nuper in Brasilia Nuntii Apostolici munus egregie explevit, his diebus coram confirmavit, Fidei vitaeque christianae studium in vestris populis mirifice crevisse.—Iam, ut in hoc infinito prope campo industriae pastoralis vel utilius versemini, nonnulla, pro Apostolico munere, habemus vos vestrumque utriusque ordinis Clerum vehementer hortari.

Ante omnia, quoniam ex istis dioecesibus quaedam etiamnum latius, regnorum instar, patent, adeo ut, nisi partitae fuerint, difficulter administrari queant, idcirco de iis aequa et prudenti ratione dividendis vos mature cogitabitis.—Interim vero illud omni ope nitendum vobis est, ut incolarum multitudini copia respondeat sacerdotum, quorum sane summa hodie penuria est; iique ut instructu doctrinae ornatuque virtutum ministerio sanctissimo sint pares. Quare ad sacra Seminaria tum maiora tum minora, quae appellantur, unde solum idoneus sacerdotum huiusmodi sperandus est numerus, diligentissime adiiciatis animum oportet, ut ea quidem, ubi adsunt, rite ordinanda et gubernanda, ubi vero desiderantur, instituenda et fundanda curetis.—Neque indigenis tantum prospicere debetis, quamquam ratio postulat, ut ii potissimum sint vobis curae, sed multum operae ac studii conferendum etiam est ad salutem advenarum. Cognitum est, qui ex diversis Europae regionibus in Americam demigrent, sive diuturna hospitia sive stabiles perpetuasque sedes ibi quaesitum, eos magnam partem quotannis ad Brasiliae

vestrae oras confluere. Sed hoc haud satis solet animadverti, quod valde est dolendum, eorum plerosque, si ex inopia ad aliquam paullatim fortunam emergant, misere bonorum animae, quae multo sunt potiora, iacturam, facere consuevisse. Nam destituti ferme ope sacerdotum, propter ignorationem locorum atque linguae sibi relictis, sensim desuetudine sacrorum fit, ut vitam instituant omnis religionis expertem, aut etiam, inimicorum Fidei catholicae irretiti fallaciis, ad perversa dogmata convertantur. Iam vero huic tantae tot hominum necessitati, si in praesens plene et omnino mederi non licet, tamen, quam aptissime potest, pro facultate subveniendum est: cupimusque propterea dari operam, ut iis, maxime in ingressu vitae transmarinae, per celeberrima quaeque loca, ubi consueverunt consistere, sacerdotes nonnulli, qui eadem utantur lingua, praesto sint ad opitulandum congruenter.

Equidem quod attinet ad ministerium verbi, scimus libenterque profitemur, Venerabiles Fratres, plurimos de Clero vestro in alenda Fide et pietate populi mirae esse sedulitatis. Verumtamen non possumus quin omnes in universum, sed praesertim rectores parochiarum, impense hortemur, ut sanctam solemnemque vel de doctrina christiana institutionem vel explanationem Evangelii ne umquam intermittant. Optime autem populi commodis consultum fuerit, si hoc in morem inducatur apud vos, quod iam in aliis dioecesibus utilissime factitatur, ut unusquisque sacerdotum ex utroque Clero, singulis diebus festis, inter sacrum conciunculam de rebus divinis habeat. Commodissima enim haec videtur ratio, in sacrificarum paucitate, populum christianum de suis officiis erudiendi: eamque omnes, quotquot istic sunt, sacerdotes adhibeant, magno opere velimus.

Iam coetus istic coepisse agi de honeste salubriterque scriptis spargendis in vulgus, Nos quidem magna cum voluptate animi certiores facti sumus. Omnino huius aetatis, tantis affectae et afflictae malis, haec maxima labes est, ut effrenata et prope infinita licentia tribuatur improbis ad convellendam, diariorum commentariorum librorum colluvie, observantiam publicam religionis honestatemque morum, quae ipsa sunt civilis conjunctionis fundamenta; praecipue vero ad depravandam penitus iuventutem, quacum Ecclesiae itemque patriae spes potissimae adolescunt. Confidimus igitur fore, ut, vobis auctoribus, boni omnes eiusmodi scriptarum impie licenterque lectione rerum et se ipsi abstineant et suos prohibeant; simul autem suis opibus studiisque efficiant, ut alia scripta vel quotidie vel in certos dies

late vulgentur, in quibus christiana sapientia et virtus salva sit, ac iustae quoque habeatur ratio utilitatis.

Praeterea, non fugit prudentiam vestram, quantum adiumenti ad commune bonum insit in consociationibus iis, quae, pietatis, beneficentiae mutuaeve utilitatis causa institutae, passim in orbe catholico vigent ac florent. Pergratum Nobis feret, si talibus etiam praesidiis dioeceses vestras videremus ornatas: idque vos, ut vestra auctoritate effectum detis hortamur; in primis autem, ut illa catholicorum corpora existant, quae rei sociali tuendae componi solent. Est enim hoc genus nostris maxime accommodatum temporibus, quo simul consociatis suarum rationum defensio, simul Fidei morumque custodia comparatur.

Sinite postremo loco, ut ad id vestram incitemus diligentiam, quo certe praecipuam quamdam curarum partem habetis, ut oportet, conversam, ad disciplinam institutionemque puerilem. Scilicet vigilandum perpetuo est pro locupletium pariter et pro tenuium liberis, attenteque spectandum, ut, Religione magistra, ad veritatem erudiantur et ad vitae integritatem informantur. Hoc nempe christianae reipublicae communisque salutis permagni interest: talia enim posthac futura sunt tempora, qualis nunc tenera et imbecilla aetas fingitur.

Haec omnia, Venerabiles Fratres, quae Apostolici officii duximus vobis proponere, vos in coetibus episcopalibus, quos ex praescripto Plenarii Americae Latinae Concilii de more celebraturi estis, pro vestro divinae gloriae et animorum studio, diligentur considerabitis quemadmodum utilissime exsequamini.

Interea, divinorum munerum auspiciem et benevolentiae Nostrae testem, vobis, dilecte Fili Noster et Venerabiles Fratres, et Clero populisque vestris apostolicam benedictionem amantissime impertimus.

Datum Romae apud S. Petrum, die VI mensis Iunii anno MCMXI, Pontificatus Nostri octavo.

PIUS PP. X.

#### TRANSFERRED PASTORS

S. CONGREGATIO CONCILII

S. IOHANNIS DE MAURIANA

CURAE ANIMARUM

*die 6 Augusti 1910*

Litteris ad S. H. C., die 10 Aprilis hoc anno datis, R. P. D. Adrianus Fodéré, dioecesis S. Iohannis de Mauriana, Episcopus,



ea quae sequuntur exposuit : ' Quidam parochi amovibiles suae dioecesis quibus, ob varias causas, necessitas fuit locum cedendi alibique commorandi, nunc pertinaciter recusant munus pastorale exercendum in alio loco, ut nimis onerosum. Hortationes, suasiones, hactenus vanae profecerunt.

' Rationes quas opponunt sunt istae :

' 1°. Promissio obedientiae Ordinario facta die promotionis ad presbyteratus officium non obligat cum tanto incommodo. Si futura praevidissent, aiunt, numquam illam emisissent.

' 2°. Fastidium muneris aut vitae parochialis in hisce miseris temporibus.

' 3°. Taedium mendicandi victum sibi et necessaria cultui divino apud plebem suam.

' 4°. Animus perversus populi ingrati.

' 5°. Valetudo minus commoda, plerumque verosimiliter ficta, ad implendum denuo onus ultra vires.

' Itaque ut conscientiae suae tutius satisfaciat certamque in praesenti normam sequatur, humiliter atque enixe postulat utrum deficientibus presbyteris pro sua dioecesi :

' 1°. Possit poenis ecclesiasticis cogere ad suscipiendum iterum munus parochiale quos iudicaverit idoneos ?

' 2°. Utrum illud debeat ?'

Quamvis eadem vere, ut infra videbitur, et alias S. H. C. decernendum occurrerit cum tamen rerum adiuncta in Gallia praesertim post legem, quam de separatione inter Civitatem et Ecclesiam vocant, immutata non parum fuerint, rem ipsam iterum Eñorum Patrum iudicio subiicienda S. H. C. censuit.

*Synopsis disputationis ex voto Consultoris desumpta.*—Causa, ut ex expositis patet, respicit parochos amovibiles ad nutum seu succursalistas in Gallia, qui ex quibusdam motivis coacti munus parochiale relinquere alio se transtulerunt, et inibi munus parochiale exercere nolunt, sed potius liberi a cura parochiali manere exoptant, licet aliud necessitas dioecesis exigat, et Episcopus eos obligare intendat. Ut factae petitioni in casu respondeatur, operae pretium erit expendere quaestionem tum in genere, scilicet utrum Episcopus etiam poenis ecclesiasticis cogere valeat sacerdotes suae dioecesis idoneos et caeteroquin liberos ab aliis incompatibilibus officiis ad munus parochiale suscipiendum, tum in specie relate ad succursalistas, et haec tria examinanda proponuntur.

1°. Quid iuxta ss. canones de mota quaestione sit sentiendum.

2°. Quatenam sint II. S. Congregationis circa hanc materiam resolutiones.

3°. Utrum in proposito casu vim habeant adductae rationes ab amovibilibus ex parochis ut ab imposito onere iterum suscipiendo excusentur.

Quoad primum haec notanda sunt. Antiquitus cum nullae essent paroeciae, clerici mittebantur indiscriminatim ab Episcopo cum quo vitam communem degebant, ad opem fidelium necessitatibus spiritualibus ferendam; et tunc toties quoties prout necessitas ferebat, officia spiritualia committebantur. Serius institui coepta sunt ecclesiastica beneficia quando desiit vita communis, et tunc etiam originem habuerunt paroeciae (confer Bouix *De Paroch.*, sect. 1, cap. 1) : sed hae territorium assignatum adhuc non habebant, et ad has interim Episcopus clericos sibi subditos designabat. In decreto Gratiani, *causa 10, q. 1, c. 4*, haec dispositio Leonis IV. ad Episcopos Britanniae legitur : 'Regenda est unaquaeque parochia sub provisione ac tuitione Episcopi per sacerdotes, vel caeteros clericos, quos ipse cum Dei timore providerit, cui iure pertinere videtur et circumire, ut sibi visum fuerit, ecclesiastica utilitate cogente.' Tandem a Conc. Trid. statutum est quod paroeciae assignatum haberent territorium, et proprium rectorem (*sess. XIV., de ref. cap. 9, et sess. XXIV., cap. 13, De ref.*) : et de clericis in genere constitutum est ut tantum essent ordinati in bonum et utilitatem dioecesis, et alicui ecclesiae incardinati sub dependentia proprii episcopi, uti inibi suis fungantur muneribus. 'Cum nullus debeat ordinari, qui iudicio sui Episcopi non sit utilis aut necessarius suis ecclesiis, Sancta Synodus . . . statuit ut nullus in posterum ordinetur, qui illi ecclesiae, aut pio loco pro cuius necessitate aut utilitate assumitur, non adscribatur ubi suis fungatur muneribus nec incertis vagetur sedibus' (*sess. XXIII., cap. 16, De ref., Conc. Trid.*). Ex hac dispositione fit ut singuli clerici ex facto ordinationis censeantur incardinati dioecesi proprii Episcopi, et sub eius dependentia exercere teneantur officia ecclesiastica eique obedire.

Hanc obligationem clericorum ad acceptanda officia sibi ab Episcopo commissa clare auctor A. Bonal in suo opere *Instit. canonicae (tractat. IV., n. 106, De Hierar. Episcopali)* ita compendiatim exponit : 'Id (dicta obligatio) constat tum ex iurisdictione in foro externo, qua pollet Episcopus et quae stare nequit quin subditi obtemperare teneantur; tum ex ipso ordinationis fine, quo clericus sub ditione proprii Episcopi remanet, ut data occasione, illius ope Episcopi dioecesis utilitatibus vel necessitatibus provideant, tum ex ipsa obedientiae promissione in die ordinationis facta, tum ex impossibilitate dioecesim gubernandi,

si cuilibet clerico liceat recusare munus, cui ab Episcopo praepositur, tum denique ex stricto caritatis praecepto sacros ministros per se obligante fidelium necessitate subveniendi.' Quae cum ita sint, non videtur posse dubitari, quod Episcopi inspecto iure Tridentino valeant sacerdotes suae dioecesis caeteroquin idoneos et liberos cogere ad assumendum pastorale munus, stante spirituali dioecesis necessitate, et quidem comminatis poenis, quia secus, dicta potestas in praxi inefficax evaderet. In Gallia vero notandum est, quod post legem concordatariam initam inter Pium VII. et Napoleonem I<sup>um</sup> anno 1801 introducta est duplex classis parochorum nempe cantonalium seu titularium, et amovibilium ad nutum Episcopi, qui dici solent *desservants*: hi revocari possunt ad Episcopi nutum et alio destinari. Licet haec inducta disciplina non sit legitima in sensu canonum, tamen de facto est, quod a S. Sede indirecte probata fuit ex rescripto Gregorii XVI., diei 1 Maii 1845 ad Episcopum Leodiensem: 'An valeat et in conscientia obliget, usque ad aliam S. Sedis dispositionem, disciplina inducta post concordatum a. 1801, ex qua Episcopi rectoribus ecclesiarum, quae vocantur succursales iurisdictionem pro cura animarum conferre solent ad nutum revocabilem, et illi si revocentur vel alio mittantur, teneantur obedire.' Responsum est: 'S<sup>sm</sup>us benigne annuit, ut in regimine ecclesiarum succursalium, de quibus agitur, nulla immutatio fiat, donec aliter a S. Sede statutum fuerit' (Bouix, *p. 1, sect. IV., c. 5*).

Ad secundum punctum nunc transeundo inspicere oportet, qua ratione Episcopi data facultate uti possunt. Ut aliqua via tuta vel norma in hac materia exhibeatur, opportunum censeo nonnullas subiicere resolutiones H. S. C. quae disciplinam eius innuunt, et quae referuntur in ephemeride *Monitore ecclesiastico* (v. 7, *part I. pag. 25*; *part II. pag. 49, 217*).

Harum decisionum duplex habetur categoria: in una recognoscitur in Episcopis facultas cogendi sacerdotes ut supra etiam intentatis censuris ad munus parochiale assumendum urgente necessitate, et ad tempus pro prudenti arbitrio Episcopi; in alia vero a S. Sede Episcopo traduntur opportuna facultates, ut id perficere valeant, et pariter limitate ad tempus et ad casum necessitatis. Ad primam categoriam spectant decisiones editae in causis *Urbeveta*na, 10 Maii 1766; *Tridentina*, 18 Augusti 1860; *Civitatis Castellanae*, 1862, in quibus datum est responsum prouti in *Naxien.*, diei 22 Augusti 1631: 'Sacerdotes posse ab Episcopo compelli ad praestandum servitium, quod eiusdem ecclesiae necessitas aut utilitas requirit.' Recentius in una *Parmen.*,



*Circa clerum*, diei 17 Ian. 1886 ad dub. 3<sup>um</sup> formiter propositum ut sequitur : ' Utrum sub eodem praecepto obedientiae et iisdem intentatis censuris possit Episcopus sacerdotes otiosos vel ferme otiosos et sanitate suffultos compellere ad suscipiendam ecclesiarum curam, donec illi fas sit providere pastorem ? ' respondit : *Affirmative, urgente necessitate et ad tempus.*

Quin imo haec decisio extensa et ampliata fuit in una *Calven.*, diei 28 Martii 1890 (confer ephemeridem ut supra *l.c.*, *part II.* pag. 49) : quaerenti enim Episcopo Calvensi cui aequae principaliter est unita dioecesis Theanensis : ' Se possa obbligare i sacerdoti di Calvi col precetto di ubbidienza *sub gravi* e con censura di restar sospesi *a divinis et in divinis* a presentarsi o come economi curati o come parroci titolari per concorso alle parrocchie vacanti di questa diocesi di Teano . . . e se possa ancora obbligare come sopra sacerdoti religiosi, i quali per i tempi attuali dimorano in famiglia ? ' a S. C. hoc prodiit rescriptum : ' Detur responsum ut in *Parmen.*, diei 17 Ianuarii 1886 ad tertium dubium : quoad vero viros religiosos, quatenus extra claustra vivant de suorum superiorum temporanea licentia, rem agat (Episcopus) cum iisdem superioribus.' Iuxta allatas decisiones sancitur, quod Episcopi polleant nativo iure cogendi saltem ad tempus et stante necessitate, etiam sub poenis, presbyteros suarum diocesum ad acceptandum munus paroeciale ut in casu.

E contra iuxta decisiones, quae ad alteram pertinent categoriam, dicta potestas in proposito casu Episcopis adscribitur tantum ex facultatibus Apostolicis : at hae referuntur ad Galliae Episcopos, et ad parochos succursalistas qui iam a cura excesserunt.

Anno 1884 Eñus Archiepiscopus Tolosanus S. C. sequentia exposuit quaesita pro solutione : ' Cum non raro accadat ut sacerdotes quibus cura amovibilis ecclesiarum succursalium, ut aiunt, commissa fuit, otii vel facillioris vitae studio, muneri suo renuntiare exoptent, cessione apud Ordinarium facta, etiam ante eius acceptationem, eo quod beneficia proprie dicta non tenent, relictis suis ecclesiis ad propria redeant, unde contingit non paucos sacerdotes vitam otiosam, adhuc viribus integros degere tam in urbe episcopali quam in potioribus dioeceseos civitatibus, non sine scandalo fidelium : interea plures parochiales ecclesiae suis carent rectoribus, non sine magno religionis detrimento, eo quod Episcopus ob sacerdotum penuriam, ipsis de parocho idoneo providere nequit. Quapropter Orator quaerit :

' 1<sup>o</sup>. Utrum liceat praedictis sacerdotibus, eo quod beneficia

veri nominis non teneant, a munere suo recedere, non obtenta prius Ordinarii licentia?

'2°. An ex praecepto obedientiae, adhibitis si opus fuerit censuris, Episcopus ius habeat eos cogendi ut in suo munere persistent, usquedum ipsis de idoneo successore providere valeat.

'3°. Utrum sub eodem praecepto iisdemque intentatis censuris, facultatem habeat Episcopus sacerdotes viribus pollentes et ab aliis officiis liberos compellendi ad earum ecclesiarum curam percipiendam, usque dum illis alio modo providere queat?'

S. C. die 9 Maii eiusdem anni propositis dubiis respondit: 'Attentis peculiaribus circumstantiis:

'Ad 1<sup>um</sup> Negative.

'Ad 2<sup>um</sup> Affirmative.

'Ad 3<sup>um</sup> Affirmative, vigore facultatum, quae approbante SS<sup>mo</sup> D. N. E<sup>o</sup> Archiepiscopo idcirco tribuuntur ad septennium si tandiu. . . .'

Ita in una *Foroiulien.*, *Curae animarum*, diei 31 Ianuarii 1891 proposito dubio: 'An et quomodo concedenda sit facultas cogendi sub praecepto obedientiae, adhibitis etiam si opus fuerit, censuris sacerdotes viribus pollentes et a quocumque officio liberos ad curam animarum, aliaque munera pro regimine animarum necessaria suscipienda in casu,' responsum fuit: 'Affirmative in terminis rescripti in *Tolosana* ad tertium, dummodo eadem circumstantiae concurrant.' Hae duae postremae decisiones, uti paulo ante notavi, attingunt dioeceses in Gallia existentes et praesertim paroecias a succursalistis regi solitas: si quaeratur cur pro harum Episcopis opportuna a S. Sede concessae sunt facultates ut cogere veleant etiam censuris refractarios sacerdotes idoneos et ab aliis officiis vacuos ad acceptandum temporanee pastorale munus, dum in Episcopis aliarum diocesum recognita est nativa potestas, si quid in mea tenuitate opinor, id fortasse repetendum venit a specialibus conditionibus post legem concordatariam in Gallia (nunc violenter a gubernio abolitam) inductis per creationem dictarum paroeciarum, quae nunquam directe a S. Sede approbatae fuerunt (*Bouix, l.c.*); facile hinc evenire poterat, ut presbyteri, blandiente desidia, commissum officium respuerent, et molestias apud gubernium crearent: ideo ad hoc avertendum opportuna a S. Sede facultates tribuebantur.

Ad tertium quod attinet nempe ad causas excusantes adductas a sacerdotibus pro munere pastorali declinando haec notanda sunt:

1°. Quod presbyteri ordinati sunt in bonum dioecesis spirituale : hinc non proprium commodum, sed animarum salutem eos exquirere oportet.

2°. Quod ex supra allatis id valere etiam debet pro parochis in Gallia *desservants* nuncupatis, qui relicta cura pastoralis per transitum in alium locum, modo recusant idem onus in nova sede iterum suscipere.

3°. Quod hisce non obstantibus adesse possunt in praxi gravia motiva quae presbyteros eximant ab acceptatione muneris, uti adesse possunt pro iam commisso munere renuntiando, ut puta mala affecta valetudo, odium populi et alia huiusmodi ; in his enim circumstantiis cum munus committendum potiusquam in utilitatem populi spirituales vergat in dispendium, prudentia exigit, ut presbyteri in huiusmodi conditione positi non subiiciantur dicto oneri.

Verum de valore harum causarum iudex esse debet Episcopus, qui prae oculis habere semper debet illud principium, salus animarum suprema lex est. Ceterum rationes ut proponuntur in postulatione Episcopi in principio relata, per se mihi videntur non esse sufficientes ad dictos presbyteros a cura animarum temporanee acceptanda exonerandos.

RESOLUTIO. Eñi Patres S. Congregationis Concilii in plenariis comitiis habitis die 6 Augusti 1910 propositis ab Episcopo dubiis respondendum censuerunt :

*Affirmative, dummodo agatur de sacerdotibus viribus pollentibus et ab aliis officiis liberis, et quodusque Episcopus necessitatibus vacantium paroeciarum alio modo providere nequeat, et ad mentem.*

Die autem 7 eiusdem mensis et anni SS<sup>us</sup> Dominus Noster, audita relatione infrascripti Secretarii, Eñorum Patrum resolutionem approbare dignatus est.

C. CARD. GENNARI, *Praefectus.*

BASILIUS POMPILI, *Secretarius.*

L. ✠ S.



## SOCIETY OF PROCESSION BOYS

SOCIETAS PUERORUM A COMITATU SANCTISSIMI SACRAMENTI, ROMAE  
IN BASILICA SS. XII. APOSTOLORUM INSTITUTA, IN PRIMARIAM  
ERIGITUR

PIUS PP. X.

Ad perpetuam rei memoriam.—Comperimus ex gravi commendatione dilecti filii Nostri Petri S. R. E. presbyteri Cardinalis Respighi Nostri in hac Alma Urbe Vicarii in spiritualibus Generalis, in Basilica urbana Sanctorum XII. Apostolorum, iam inde a die decima quinta mensis Iulii anno MDCCCII ab ipso Vicario piam canonice institutam fuisse Societatem Puerorum a Comitatu SS<sup>ni</sup> Sacramenti appellatam. Novimus pariter hanc Societatem frugiferum ad finem fuisse erectam adducendae pueritiae ad Eum qui innocentes puerulos adamavit, monuitque discipulos suos, ut sinerent parvulos venire ad Se. Pergratum quoque nuncium accepimus in pluribus Urbis paroeciis societatem ipsam maiora in dies incrementa suscipere; iam in nonnullas Italiae dioeceses propagari feliciter, atque exteris etiam nationes ipsius institutionem sedulo studio exquirere. Cum itaque dilectus ipse filius Noster Cardinalis in Urbe Vicarius Nos enixis precibus flagitaverit ut societatem superenunciatam ad Primariae dignitatem provehere pro universo terrarum orbe dignemur, Nos piis huiusmodi coeptis ultro libenterque faventes, ac tam frugiferae societati bona, fausta, ac felicia cuncta adprecati, haec quae infrae scripta sunt suprema Nostra interposita Apostolica Auctoritate edicimus ac mandamus. Societatem Puerorum a comitatu SS<sup>ni</sup> Sacramenti, Romae in Basilica Sanctorum XII. Apostolorum canonice institutam, Apostolica Nostra Auctoritate, praesentium vi, perpetuumque in modum in Primariam erigimus atque instituimus, cum omnibus privilegiis quae Archisodalitiis de iure competunt. Eiusdem autem Primariae Societatis Moderatori atque Officialibus praesentibus et futuris concedimus, ut ipsi, servatis forma Constitutionis Clementis PP. VIII. Praedecessoris Nostri rec. me. aliisque Apostolicis Ordinibus desuper editis, alias eiusdem tituli atque instituti Societates nunc et in posterum in universis catholici orbis dioecesibus canonice erectas sive erigendas, sibi rite aggregare, cum illisque communicare perpetuo valeant omnes et singulas indulgentias et spirituales gratias eidem Primariae Societati a Sede Apostolica concessas, quae sint aliis communicabiles. Decernentes praesentes Litteras firmas, validas atque efficaces semper existere et fore, suosque

plenarios atque integros effectus sortiri atque obtinere, illisque ad quos spectant sive in posterum spectare poterint, plenissime suffragari, sicque per quoscumque iudices ordinarios et delegatos iudicari et definiri debere, atque irritum esse et inane, si secus super his a quoquam, quavis auctoritate, scienter vel ignoranter contingerit attentari. Non obstantibus Constitutionibus et Ordinationibus Apostolicis ceterisque omnibus speciali et individua mentione ac derogatione dignis, contrariis quibuscumque. Tandem volumus ut praesentium litterarum transumptis, seu exemplis, etiam impressis, manu alicuius Notarii publici subscriptis et sigillo personae in ecclesiastica dignitate constitutae munitis eadem prorsus fides adhibeatur, quae ipsis praesentibus adhiberetur, si forent exhibitae vel ostensae.

Datum Romae apud S. Petrum, sub annulo Piscatoris, die 1 Iunii MDCCCCXI., Pontificatus Nostri anno octavo.

R. CARD. MERRY DEL VAL, *a Secretis Status*.

L. ✠ S.

## NOTICES OF BOOKS

ENCHIRIDION PATRISTICUM. Locos SS. Patrum, Doctorum, Scriptorum, Ecclesiasticorum, in usum Scholarum collegit M. J. Rouët de Journal, S.J. Herder, Freiburg, and 68 Great Russell Street, London, W.C.

THE study of the Fathers and Doctors of the Church is of the highest importance for ecclesiastics. Nowhere is one brought so directly in contact with the traditions and spirit of the Church as in their writings. Nowhere is a wholesome detestation of heresy so vigorously inculcated or true doctrine so carefully and systematically expounded. Protestants have endeavoured to turn the Fathers to account in their struggle against the Church; but those of them who faced the study of their works with a desire to find out the truth have acknowledged that their evidence is overwhelming against them. A good introductory handbook to the works of the Fathers was, therefore, much needed. The older ones were out of date and left much to be desired. Recently we have had quite a number of new ones and this one will serve as a useful supplement to them. For it gives the passages in the original Greek and Latin that concern the principal doctrines of the Church.

It begins with the Didache and ends with St. John Damascene. It brings together and publishes in a single volume well edited passages on these important doctrines from St. Clement of Rome, St. Barnabas, St. Ignatius of Antioch, St. Polycarp, Papias, Dionysius of Corinth, Quadratus, St. Justin, Tatian, Athenagoras, St. Theophilus of Antioch, Hegesippus, St. Irenæus, Minutius Felix, Tertullian, Clement of Alexandria, Origen, St. Cyprian, Novatian, Arnobius, Lactantius, Eusebius of Cesarea, St. Athanasius, St. Cyril of Jerusalem, St. Hilary, Marius Victorinus, St. Gregory of Nazianzen, St. Gregory of Nyssa, St. Epiphanius, St. John Chrysostom, St. Optatus, Faustinus, St. Ambrose, St. Jerome, St. Augustine, Marius Mercator, Cassian, Sozomene, St. Vincent of Lerins, St. Fulgentius, St. Gregory the Great, and many others.

The biographical element is wanting; but the volume will be found very useful by those who require safe reference to the passages of the Fathers and other writers mentioned on the principal doctrines of the Church.

J. F. H.



THE DATE OF THE COMPOSITION OF DEUTERONOMY. A critical study by Hugh Pope, O.P., S.T.L., Doctor of Sacred Scripture, Professor of New Testament Exegesis in the Collegio Angelico, Rome. Rome : Pustet. 1911.

THE author tells us in the preface that this work in its original form was defended as a thesis for the Doctorate in Sacred Scripture before the Biblical Commission. The work aims at showing that modern theories, which set Deuteronomy in the time of Josias, are arbitrary and subjective, and that the Mosaic authorship of Deuteronomy may be satisfactorily established. The date of Deuteronomy is, in a sense, the central problem of the Old Testament, and Dr. Pope's work is a direct attack on the main positions of Wellhausen's school. When one reflects, however, that the law of the one central sanctuary is the point around which most modern attacks on the Pentateuch have converged, it is somewhat disappointing to find that Dr. Pope has devoted to this important law but five pages out of a total of nearly two hundred. This problem of the centralization of worship would have afforded a splendid opportunity to the author to display his extraordinary ability in detecting inconsistencies in the statements of the writers of Wellhausen's school. Dr. Pope gives us an excellent chapter (Chapter iv.) on the Levitical Priesthood, and students will find Chapter vi., the Discovery of the Book of the Law, and Chapter viii., Literary Affinities of Deuteronomy, exceedingly useful. Dr. Pope shows striking ingenuity throughout in explaining all difficulties arising against his thesis from the language of Deuteronomy. These difficulties he meets by establishing in a very interesting way subtle shades of difference in meaning between words mostly regarded as synonymous. It must be said that Dr. Pope makes out a strong case for the Mosaic authorship of Deuteronomy, and that he has laid bare numerous inconsistencies and weaknesses in the theories of evolutionist critics. Everyone will not feel satisfied with his clever explanations of Hebrew terms, nor with his omission of references to individual critics and their works, but every earnest Catholic student of the Old Testament will be grateful to the author for his bold and successful handling of a critical problem.

The number of misprints of Hebrew words and foreign proper names throughout the work is distressing, and makes one regret that so important a Catholic publication should have been hurried through the press.

P. B.

LEXICON BIBLICUM. Editore Martino Hagen, S.J. Three Vols. Paris : Lethielleux. 1911.

THIS Biblical Dictionary forms a portion of the great Jesuit *Cursus Scripturae Sacrae*. The signed articles have been contributed by the Jesuit Fathers Hagen, Fonck, Knabenbauer, Zorell, Koch, Wiesmann, Cladder. The Dictionary is much less ambitious than that of Vigouroux, and does not compare in extent with the Protestant dictionaries of Hastings or Cheyne. The work seems to have been planned on the same lines as the various other volumes of the *Cursus*. It aims at presenting the most assured results of Biblical science rather than at presenting many new points of view. The articles are, as in every Bible dictionary, of very unequal value. But they have been all written in a very serious scientific spirit. The articles do not cover every hotly-contested problem of the Bible, nor do they supply us with every view on the problems which they discuss. But much that is omitted in the *Lexicon* is contained in the other volumes of the *Cursus*. Father Fonck's articles on the Natural History of the Bible are splendid, and the many articles on archæological topics are, in view of their relative brevity, of very special value. We recommend this work very cordially to priests and to all students of the Bible.

P. B.

HORAE SEMITICAE, NO. V. The Commentaries of Isho'dad of Merv, in Syriac and English. Edited and translated by Margaret Dunlop Gibson. With an Introduction by James Rendel Harris, M.A. Three Vols Cambridge : University Press. 1911.

THE Isho'dad, whose commentaries on the Gospels are now, for the first time, published, was a native of Merv, and the bishop of a see near Mosul, called Chedatha. He seems to have flourished about 850 A.D., and to have written numerous commentaries on the Old and New Testaments. We know for certain that, besides the Gospel commentaries now published, Isho'dad wrote annotations on the Acts and on the Epistles of St. Paul. Mrs. Gibson has used for her text two MSS., one which is in Cambridge, and a second which belongs to Dr. Margoliouth, as well as a transcript of a third MS., which is in Ooroomiah. Professor Rendel Harris has written a valuable introduction to the work, in which he points out the importance of Isho'dad in the history

of exegesis and textual criticism. The exegetical value of Isho'dad's work lies mainly in the fact that it reproduces largely Ephrem's commentary on the Syriac Diatessaron—that earliest Syrian Gospel-text—and that it incorporates a great deal of material taken from Theodore of Mopsuesta, the commentator, and from the Nestorian exegetes. For textual criticism Isho'dad's work is highly important, because he criticises cleverly the Synoptic variations, gives us often Syriac variants where we knew of Greek or Latin variants only, supplies a number of passages from the Syriac of Tatian's Diatessaron, and quotes abundantly from old Syriac Gospel-texts which are possibly older than the Diatessaron. Professor Rendel Harris in his Introduction calls attention to the striking fact that the Gospel commentary of Bar Salibi, a writer of the twelfth century, is, to a large extent, a verbal reproduction of Isho'dad. Through Isho'dad's commentaries, and through the plagiarist commentators of a later time, one may hope to be able to recover ultimately large sections of the 'Interpreter' Theodore.

Mrs. Gibson has not merely edited the text in a thorough and painstaking fashion, but has added a very readable and, as one might naturally expect from her, a very reliable English translation. The valuable commentary of the Syriac scholar is thus put within the reach of every earnest Biblical student.

P. B.

ONOMASTICON GOEDELICUM, Locorum et Tribum Hiberniae et Scotiae. An Index, with Identifications to the Gaelic names of Places and Tribes. By Edmund Hogan, S.J., D.Litt., etc. Dublin: Hodges and Figgis. London: Williams and Norgate.

HERE is a work of real value and scholarship which will save the delvers in Irish, Anglo-Irish and Scotch literature many a dreary hour's labour. We must leave a detailed appreciation of it to an expert, but here and now we can pay our tribute to the patient labour of the veteran Irish scholar who, with so little ostentation, and without any blowing of trumpets, has done so much for Irish scholarship and learning.

The scope of the work is set forth in the Preface where the author says:—

'The book contains, firstly, the Gaelic place-names found in the many unprinted and printed volumes mentioned at the end



of this Preface, with hints as to their gender and declension; secondly, their identifications, taken directly from the cited text and the context, or from several texts and contexts combined. Help was also sought from Lists of Townlands and Parishes, from the Parliamentary Gazetteer of Ireland, and from maps of the last three centuries. In addition are given the identifications to be found in the topographical notes of Colgan, O'Donovan, and Reeves, as well as of Hennessy, O'Curry, and MacCarthy. A map is given which outlines the relations of Diocesan and County boundaries.

'Such a book, if fairly well done, will save Celtic scholars from exhausting and time-wasting search after identifications, and set them free for the nobler work of editing and translating Irish texts, and of wresting from them the innermost and most important secrets of our language.

'The limits prescribed as to the extent and cost of the present work have debarred me from publishing, as an integral part of it, any notable portion of a mass of material on the meaning and pronunciation of the names it includes. Reference, either expository or critical, to the historic and legendary associations which cluster round our Irish place-names, has similarly been precluded. By the same limitations are to be explained the very condensed form in which information is given, and the use of abbreviated abbreviations, which, however, those engaged in research will easily understand.

'It may be well, perhaps, to set down in this place two general cautions. First, there are many apparent divergences between the locations of place-names as given by Colgan and by O'Donovan, Reeves, and others. These differences are explained by the very material and quite unnecessary changes made in the boundaries of Irish counties, baronies, and parishes, by Acts of Parliament between seventy and eighty years ago. Again, it did not fall within the scope of this work to attempt any emendations of the texts utilised, or to reconcile the conflicting opinions of scholars on questions of identification.'

The splendid volume would be a credit to a young and energetic scholar, but it is a wonderful piece of work for a man of eighty-two.

J. F. H.



## REPETITION OF EXTREME UNCTION AND THE LAST BLESSING

THE discipline of the Catholic Church as regards the repetition of Extreme Unction is regulated by the Council of Trent, Session xiv., Chapter 3, in the following words: 'Quod si infirmi post susceptam hanc unctionem convaluerint, iterum hujus sacramenti subsidio juvari poterunt, cum in aliud simile vitæ discrimen inciderint.' Whatever, therefore, may have been the practice in the early or medieval Church—and the Rev. Dr. Toner, in a remarkable article in the *Irish Theological Quarterly*, April, 1909, holds that for the first twelve centuries Extreme Unction was frequently administered in the Western Church in the same danger of death—the law of Trent now restricts the administration of the sacrament to one application in the same danger. The words of Trent, however, do not seem to cover the case of a prolonged illness, for St. Alphonsus quotes these words of the Council in dealing with the question of the repetition of the sacrament when the illness is of short duration.<sup>1</sup> Cases of long sickness are expressly dealt with in the words of the Roman Ritual: 'In eadem infirmitate hoc sacramentum iterari non debet nisi diuturna sit, ut si, cum infirmus convaluerit, iterum in periculum mortis inciderit.' This rubric, as well as the words of the Council of Trent, are, no doubt, founded on the teaching of St. Thomas which is quoted by Benedict XIV., and can be seen in

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<sup>1</sup> St. Lig., No. 745.

O'Kane *On the Rubrics*, No. 880. St. Thomas holds that the sacrament regards not only an illness as a whole, but even states of the same illness, and that it may be administered again in case of recovery from the danger of death, followed by a relapse into a similar danger. It will be noticed that the words of Trent are '*juvari poterunt*,' and the words of St. Thomas are '*inungi potest*,' while the Ritual has '*debet*.' Is there, then, an obligation in such circumstances to repeat this sacrament, or is it left to the option of the priest? In the case of a short illness the matter is plain enough, as on complete recovery and again meeting with a *new* illness there is undoubtedly an obligation.

Where, however, the sickness is prolonged, such as in cases of consumption, heart disease, asthma, certain forms of anæmia, and the group of diseases of which dropsy is a symptom, the solution is not so easy. In these ailments a patient will linger on for months, and in some instances for more than a year, while the disease will frequently change for the worse, or perhaps apparently remain *in statu quo* for a considerable time. In such cases the danger of death will sometimes appear certain, sometimes very doubtful, and the consideration of what is to be done will often tend towards perplexity. O'Kane in dealing with this case mentions that in his time 'it was the practice of some in all cases of tedious illness to repeat Extreme Unction after the interval of a month.' Many of us can recall such a practice at a much later date, but as far as we know it has for the most part been discontinued—as far, at all events, as it was a practice of repeating the sacrament without first having made inquiries as to whether there had been a recovery and relapse. St. Alphonsus says that if the patient certainly remains in the same danger of death he cannot be again anointed. '*Si infirmus post unctionem certe manserit in eodem periculo mortis non poterit rursus inungi*.'<sup>1</sup> The words of the Ritual are clear on the same point: '*In eadem infirmitate iterari non debet nisi diuturna sit, ut si infirmus convaluerit, iterum in periculum mortis*

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<sup>1</sup> St. Lig., No. 715.



inciderit.' Most, if not all, theologians contemplate the case of a patient in a prolonged illness *certainly* remaining for a considerable time, and therefore for more than a month, in the same danger; as they also deal with the case of a probable recovery and relapse. Experience will also show that, in many instances, inquiries from those in attendance on the sick will fail to reveal any change since last anointing. Medical opinion will confirm this, and, as St. Thomas says, in dealing with this sacrament we must act '*secundum humanam æstimationem*,' it is hard to say that in every case a priest will be justified in re-anointing at the end of a month in prolonged illness. It is true that O'Kane speaks of monthly anointing as a *general rule*, but we are now dealing with the practice of repeating the sacrament merely because a month has elapsed and the danger still continues. As a justification for such a practice O'Kane further says that 'it may be contended that there is, generally speaking, ground for such a doubt in the case of anyone who lives a month after receiving Extreme Unction, and is still in danger of death,' but we do not find recourse to such a statement in any of the later authors we have had an opportunity of consulting. Lehmkuhl<sup>1</sup> says it can be repeated if the danger probably ceased, and again supervened: '*Si mortis periculum propinquum probabiliter cessaverit, et iterum inducatur.*' Palmieri writes, '*quoties infirmus, in eadem infirmitate, periculo mortis accedit, ungi potest.*' Genicot<sup>2</sup> says: '*Eam iterari posse . . . postquam mortis periculum evasit, si iterum in similem statum per eamdem infirmitatem reducitur,*' while the words of Noldin<sup>3</sup> emphasize the unlawfulness of repeating Extreme Unction while the same danger certainly continues: '*In eadem infirmitate sacramentum iterandum non est quamdiu certo idem mortis periculum perdurat.*' If it could be as a general rule reasonably concluded that every disease probably undergoes a recovery and relapse within a month these authors would surely have adopted that opinion.

It is clear, therefore, that mere lapse of time without

<sup>1</sup> No. 725, New Edition.

<sup>2</sup> No. 423, iii.

<sup>3</sup> No. 462.

apparent or probable recovery and relapse does not suffice to justify a re-administration of the sacrament of Extreme Unction. This view is confirmed by the words of Ojetti, in his *Synopsis Rerum Moralium*: 'Hinc si in infirmitate etiam diuturna idem periculum semper perdurat, sacramentum non est repetendum. Ex dictis patet, nonnisi *per errorem* alicubi inductam fuisse persuasionem, *sine ullo discrimine*, morbo perdurante, post quadraginta dies a collato primitus sacramento, idem sacramentum esse denuo conferendum.' In the opinion of this author, therefore, it is an error to suppose that after forty days Extreme Unction is to be again repeated without having regard to whether the sickness has undergone a substantial change, or whether the same danger continues.

One is tempted to ask why authors fix on a month as the interval between two anointings? Lehmkuhl, who treats this question rather jejunely, is rather emphatic in requiring a considerable interval. His words are: 'Sufficit si mortis propinquum periculum probabiliter cessaverit, et iterum inducatur, modo in hoc casu intervallum satis diuturnam, ut unius mensis, intercesserit.' Gury does not allude to any special interval, while Genicot says a short improvement of four or five days is not sufficient to show probable recovery, and that a notable time, such as a month, is necessary. Noldin, however, holds that *generally* a month is necessary to show recovery, but admits that in some diseases a recovery sufficient to justify re-anointing can take place in a much shorter time, 'per aliquot dies.' Inquiry from the medical faculty will be found to sustain this latter opinion, as in cases of asthma, heart disease, and occasionally in consumption, the danger of death will sometimes have probably or perhaps certainly disappeared, and a relapse occurred within a week or two. The treatment of the question by this last author is characterized by his usual clearness and precision. He distinguishes between a recovery and relapse which is *certain* and that which is *doubtful*. In the former case, whether the time that has elapsed since the last anointing be long or short, the sacrament can be again administered, though there is no

obligation to do so. In the latter, if the interval is notable, i.e., about a month, the priest is free to anoint, but if the interval is short, v.g., a week, Extreme Unction cannot be again given.

It would, at first sight, seem as if the words of the Ritual 'debet, etc.,' impose an obligation of re-anointing when the relapse into danger of death is *certain*, but theological authors, following St. Thomas and St. Alphonsus, while recommending the re-administration of the sacrament in such circumstances do not insist on this obligation unless in case of a new illness altogether. It is needless to say that the call of charity towards the sick will in every case of the kind be sufficient to ensure for the patient the consolation for the soul as well as the bodily healing power with which this sacrament is so richly endowed.

In an interesting paragraph Noldin also gives what is a new feature in treatises on Extreme Unction, viz., a short summary of the cases in which it should be administered conditionally. This will occur when there is a doubt whether the patient is still alive, when there is a doubt whether there is probable danger of death, whether he has been already anointed, whether he has arrived at the years of discretion, or whether he had at any time the use of reason, which last two cases will apply to children and to the mentally defective. If, however, there be a doubt as to the proper dispositions on the part of the patient this sacrament is to be given absolutely, for Extreme Unction thus given, when the obex is removed, revives, whereas given conditionally the sacrament, in the case of an obex, would be null and therefore could not revive.

Neither is it unlawful to expose the sacrament in this case to danger of frustration, for the spiritual helps likely to result justify such application.

Sufficient attention, perhaps, is not often directed to the restorative effect of Extreme Unction on the body and its influence in dispelling the disease under which the patient labours. Genicot refers to the words of Trent and to the text of St. James: 'Oratio fidei salvabit infirmum,' and adds that if it is expedient for the salvation of the soul



of the patient, recovery will *infallibly* follow the administration of the sacrament : 'Qua conditione verificata, infallibiliter consequetur, vi promissionis divina.'<sup>1</sup> Lehmkuhl, quoting Kern, explains that this effect follows not 'per modum miraculi,' but that the sacrament by a special providence directs and helps the natural remedies, and in particular so strengthens the mind of the patient that it exercises unwonted power on the body, and so mitigates or expels those diseases which can be so influenced : 'Et imprimis animam ita erigat, ut is etiam vim suam naturalem in corpus exserat et eos morbos mitiget vel depellat, quarum vis per animi affectiones frangi potest.'<sup>2</sup> If the sacrament therefore does not cause recovery, it is owing either to the fact, known to God alone, that it is not for the spiritual good of the patient, or that its administration has been delayed till a miracle would be required, or finally that the disease in question is one of those incapable of being influenced by the mind of the sufferer. All which is a strong argument against undue deferring of Extreme Unction, and an explanation of the remarkable cures, after its administration, which every missionary priest has from time to time been familiar with.

For the 'benedictio in articulo mortis,' or the 'last blessing,' as it is often called, all priests on the mission nowadays usually receive faculties. The old teaching, as far as we remember, used to be that 'anointing and the last blessing always go together,' that when one was allowed so was the other. We believe this practice is fairly general even at present, at all events among the older priests. A perusal of some of the modern authors will raise considerable doubt as to its lawfulness. O'Kane,<sup>3</sup> in treating the subject, says :—

It is certain that the Benediction may be repeated in the circumstances in which Extreme Unction may be repeated, that is, when the sick person, having partially recovered, relapses, and is again in danger of death. But in a case of protracted illness, where the same danger still continues, it cannot be

<sup>1</sup> No. 419.<sup>2</sup> No. 714.<sup>3</sup> No. 962.

repeated. Both points have been expressly decided by the Sacred Congregation of Indulgences.

He then refers to Decrees dated 1675 and 1775. Genicot,<sup>1</sup> however, in dealing with indulgences teaches the contrary to the first part of this quotation, and asserts that in a prolonged illness, although it may be lawful to give Extreme Unction several times, it is not thereby lawful to give the 'last blessing' :—

*Ideo frustra et illicite iteraretur Benedictio Apostolica aegroti in eadem infirmitate quamvis diuturna, etiamsi pluries periculum mortis redit, ac propterea iterari potest extrema unctio ; iterare tamen licet si infirmus convalescit ac deinde quacumque de causa in novum mortis periculum redeat.*

In support, he refers to two Decrees of the same Congregation, dated 1836 and 1842. We subjoin the latter :—

1842. 12 FEBRUARIJ.

GANDAVEN.

#### BENEDICTIO IN ARTICULO MORTIS.

Cum Episcopus Gandavensis in Belgio dubia sibi a confessariis suae dioecesis proposita solvere, et praxim uniformem in eadem dioecesi introducere cupiat, enixe a Sacra Congregatione quaerit :

1°. Utrum benedictio in articulo mortis juxta formulam Benedicti XIV. in Constitutione 'Pia Mater' reiterari possit in eodem morbi statu ?

Et quatenus Affirmative.

2°. An ea toties iterari possit, quoties aegrotus in peccata saltem venialia relapsus ab eis absolvitur ?

Sac. Congregatio die 12 Februarii 1842 respondit :

Sacra Congregatio in una veronen. cuidam illius Episcopi dubio : *An scilicet benedictio Apostolica pluries impertiri posset novo mortis periculo redeunte ?* die 24 Septembris 1838 responsum dedit : *Negative, eadem permanente infirmitate etsi diuturna ; Affirmative vero, si infirmus convalescit, ac deinde quacumque de causa in novum mortis periculum redeat.*

At first sight it might appear that the second part of this answer sanctions repetition in case of a relapse into danger in the same long sickness, but the words

'convalescerit' and 'novum periculum,' as will be seen later on, mean full recovery and afterwards a new sickness altogether.

His opinion is supported by Noldin,<sup>1</sup> who says: 'Non licet benedictionem apostolicam in eadem infirmitate iterari, etsi in morbo diuturno novum mortis periculum redeat, adeo ut extrema unctio iterari possit.' He refers to the Decrees of 1836 and 1842, and elsewhere refers to the Decrees of 1675 and 1775, in the interpretation of which he seems to differ from O'Kane. The weight of opinion, therefore, is in favour of the non-repetition of the Benedictio in cases of prolonged illness, so that although Extreme Unction can be given in each recurring danger of death the 'last blessing,' according to these authors, must be restricted to one application in the same sickness: 'in eadem infirmitate.' Ojetti<sup>2</sup> may be quoted in support of the same view.

The reason as given by Genicot is that the end the Supreme Pontiff had in view in giving this indulgence was to provide for the last supreme moment, that of death, in which alone it can be gained, and on which the eternal salvation of the sick depends, and therefore one application suffices.

On the other hand Putzer, in his *Commentary on Apostolic Faculties*, takes a different view. The passage is a long one, but is worth transcribing:—

Indulgentia plenaria ex benedictione Papali in vero articulo mortis et quidem una tantum a moriente pro se acquiritur; ideo aliae pro animabus defunctorum non lucrifunt. Hinc in eadem permanente infirmitate licet diuturna eam semel tantum impertiri licet, etsi infirmus eam accepit in statu peccati mortalis, aut post acceptionem in peccatum relapsus est, aut absolutionem vel etiam Extremam Unctionem iterum accepit. Ratio cur prohibitum est, eadem infirmitate permanente benedictionem Papalem pluries impertiri, juxta Resp. S. C. Ind. 12 Mart., 1855, n. 362 in quo refertur ad Resp. de 5 Febr., 1841, n. 286 est, quia in eodem articulo mortis infirmus indulgentiam semel tantum lucrari potest. Unde si a moribundo non ex intuitione indulgentiam pluries lucrandi, benedictio Papalis pluries peteretur aut a sacerdote daretur, sed ex alia e.gr. ad effectum securiorem red-

<sup>1</sup> No. 329b.

<sup>2</sup> No. 2460, New Edition.



*dendum, aut si pluries conferretur ad excitandos pios affectus et ad certius procurandam pro indulgentia dispositionem, nihil fieret contra Decreta.* Ita II. Mon. Eccl. Vol. viii., part ii. p. 110, cum Melata (*Manuale de Indulgentiis*). Praesertim cum tali intentione pluries benedictio Papalis dari posset moribundo, si hic ad eam ex pluribus titulis jus haberet, prout id testante Melata etiam nunc Romae practicatur. Cfr. *Analecta Eccl.*, 1894.

If, therefore, according to this author there is no intention of imparting the indulgence itself a second time, its administration can be carried out several times in the same sickness, or even same danger of death, for the purpose of rendering the effect more secure, or for exciting in the patient a better disposition of soul and more pious affections.

This opinion, however, is strongly combated by Beringer in the latest edition of his work on indulgences.<sup>1</sup> He treats very fully the question of the last blessing, and agrees with Genicot and Noldin that it must be restricted to one application in the same sickness: 'Cette bénédiction ne peut se donner qu'une fois dans chaque maladie mortelle, quelque longue qu'elle puisse être.'<sup>2</sup> He quotes many Decrees bearing on the matter: that of 1775, in which the reply of the Sacred Congregation was 'Semel in eodem statu morbi,' and which was undoubtedly ambiguous; that of 1836 in which it is expressly decided that the blessing does not always accompany Extreme Unction:—

3°. Is it lawful to again apply the indulgence when, after its reception, the sickness lasts a long time, *uno verbo*, when the Ritual permits or commands the repetition of Extreme Unction, or the confessor judges that absolution ought to be repeated?

*Resp.* Ad tertiam, prout jacet negative pariter in omnibus.

He gives the Decree of February 5, 1841: 'Utrum infirmus lucrari possit indulgentiam plenariam in mortis articulo a pluribus sacerdotibus facultatem habentibus impertiendam? *Resp.* Negative in eodem mortis articulo.' This is followed by the Decree of 1842 as given above, and

<sup>1</sup> Troisième Edition; Paris, 1905.

<sup>2</sup> Page 680.

then comes the Decree of 1855, on the wording of which Melata based his opinion as set forth by Putzer :—

March 5, 1855.—1°. *Utrum prohibitum sit infirmo in eodem mortis periculo permanenti impertiri pluries ab eodem vel a pluribus sacerdotibus hanc facultatem habentibus indulgentiam plenariam in articulo mortis.* 2°. *Utrum vi ejusdem resolutionis item prohibitum sit impertiri pluries infirmo in iisdem circumstantibus ac supra constituto Indulgentiam Plenariam in articulo mortis a pluribus sacerdotibus hanc facultatem ex diverso capite habentibus, puta ratione aggregationis Confrat. SS. Rosarii, S. Scapularis, etc.*

*Resp.* Affirmative ad utrumque, firma remanente resolutione in una Valentinæ. sub die 5 Feb., 1841.

This answer was confirmed by Pius IX. on the 12th March, 1855.

It appears that Melata published at Rome in 1894 a brochure in which he held that, notwithstanding this Decree, it was still lawful to repeat the *Benedictio* in the same sickness or same danger of death. He drew attention to the words 'indulgentiam plenariam' of the Decree, and held that it only prohibited the intention of giving the *indulgence* more than once, and not the administration of the blessing for other ends. The distinction has at all events the merit of subtlety. Beringer holds that such a distinction is not allowable, as it is against the obvious sense of the words of the Decree, also that the reference to 'in una valentin' was clearly a confirmation by the Sacred Congregation of the interdiction of the repetition of the blessing which that decision published in 1841, while the Consultor of the S. Congregation is quoted as saying that it was precisely because the indulgence can be gained only once, viz., at the moment of death, that the repetition of its application was forbidden. The S. Congregation, according to Beringer, wished to confirm the opinion of its consultor, and he therefore concludes that Melata's interpretation of the Decree is erroneous. Melata, on the other hand, holds that the repetition produces other good effects on the sick person, v.g., the exciting of better dispositions in preparation for the moment of death, etc., but Beringer aptly rejoins that

this can be more effectively done by an exhortation in the vernacular. He sums up thus :—

En résumé nous pouvons dire ceci : Si l'on excepté le décret de 1775, qui est ancien et peu clair, toutes les autres décisions rapportées, plus haut montrent, que la bénédiction, une fois donnée, non seulement suffit dans la même maladie, quelque longtemps qu'elle se prolonge, mais encore qu'il est inutile de la réitérer, et qu'il ne pas permis de le faire, a moins que le malade, après s'être rétabli, ne retombe dans un nouveau danger de mort. Le décret de 1842 distingué clairement entre '*infirmetas eadem permanens etsi diuturna*' (dans laquelle la bénédiction in articulo mortis a été donnée) et '*novum periculum mortis*,' dans lequel le malade *après s'être rétabli*, retombe par une cause quelconque. Dans le premier cas la bénédiction ne peut pas être reitérée ; dans le second cas, elle peut l'être, parce qu'il s'agit d'une nouvelle maladie mortelle ou bien d'un nouveau danger de mort.

Complete recovery from a sickness is, therefore, necessary, and the occurrence of a new danger of death before the Benedictio can be again given. He then points out that, strictly speaking, one application in a lifetime would be sufficient, as the indulgence takes effect only at the moment of death ; but the Church, *pia mater*, permits it in case of a new dangerous illness in order to take away all uncertainty and doubt and to console the sick person. The repetition of this blessing, he continues, during the same sickness has no *raison d'être*, the sick person receives no advantage from it, and it is therefore declared unlawful : '*illicite et defendu.*' Beringer concludes : ' Tant que la S. Cong. des Indulgences n'aura point révoqué ses décisions on expliqué dans le sens de Melata la réponse de 1855, l'opinion de cet auteur ne pourrait être suivie dans la pratique.'

Putzer quotes Melata as testifying that the practice of repetition prevailed in Rome in 1894, when the patient had a claim '*ex pluribus titulis.*' Inquiries made by the present writer have elicited the fact that the practice of repetition is in existence there at present, though we are unable to say to what extent. The reason given is that the Benedictio is '*supposed to be given in articulo (not periculo) mortis*, and as the former does not last long the blessing may be repeated



as often as that state returns.' Our correspondent did 'not care to vouch for the correctness of this reasoning, and justly, as a Decree of 1885 in answer to the question 'Can the Benedictio be given immediately after the sacraments of Penance and Extreme Unction, even though the danger is not imminent?' replied, 'Affirmative'; and it was added: '(Eam) responsionem ex rei natura pro omnibus aegrotis Christifidelibus in mortis periculo constitutis valere.' Pope Leo XIII. confirmed this Decree on December 19, 1885.

The arguments in this controversy may be summed up briefly thus:—

For repetition:

1. The authority of Melata, Putzer, and the writer mentioned by the latter.
2. The absence of the usual precision of language from the Decree of 1855.
3. The practice prevailing at Rome in 1894 and at present, and which may perhaps have the tacit sanction of the Pope.
4. The absence of any new Decree forbidding in express terms repetition of the Benedictio for other ends.

For non-repetition:

1. The obvious and reasonable meaning of the words of the Decree.
2. The authority of Genicot, Noldin, Ojetti, also Beringer, whose reasoning is very convincing.
3. The uselessness of repetition, as the blessing once given remains, as it were, suspended till the moment of death.
4. Absence of any Decree sanctioning repetition which the Church, *pia mater*, would likely have issued in the interests of the dying.

We hold the latter opinion, but till a Decree issues we would not condemn the following of the former under the conditions mentioned above. But, as Beringer remarks, the ends mentioned will be much better attained by an exhortation in the vernacular.

From the foregoing pages the subjoined conclusions follow, and may be set down as safe in practice :

The mere lapse of time, v.g., a month, does not in itself justify re-anointing in a long illness. Some inquiry should be made as to any change in the illness. If there is a *reasonable doubt* in favour of recovery and relapse Extreme Unction can be administered after about a month. If it is *morally certain* that the patient has escaped the danger and relapsed, he can be re-anointed even after a short interval, v.g., a week. In neither case is there an obligation to do so. It will sometimes happen that even after the lapse of a month or more there will be no substantial change in the illness, and in this case it is not lawful to re-anoint. If it be urged that in this matter it is difficult or impossible to judge, it can be said that *in re morali* a reasonable estimation suffices.

The rule for the *Benedictio in articulo mortis* is: 'once in the same sickness, long or short.' It therefore does not always accompany Extreme Unction. In a long sickness such as consumption, etc., with frequent relapses into danger of death and repeated Extreme Unction, the last blessing with the intention of granting the indulgence should not be repeated. Neither should it, according to the best opinion, be repeated for other objects, such as the exciting of better dispositions in the sick person, as this is amply provided for in the exhortations suggested in the Ritual.

There are, however, cases in which this indulgence can be invalidly applied, and then a repetition can and ought be made : first, when the sick person has been positively opposed to its application ; secondly, when the priest had not the faculties to administer it ; and, thirdly, when the priest has not observed the formula of Benedict XIV.

T. DUNNE.

## MR. WELLS' SCEPTICISM

THROUGH his position in the literary world and the influence he possesses as exponent of a more liberal form of Socialism, Mr. H. G. Wells is entitled to our attention when he explains his first principles in matters scientific and theological. This account of the grounds of his belief and disbelief is given in the beginning of his comparatively recent work, *First and Last Things*. An examination of the principles on which Mr. Wells' philosophy mainly depends may prove both interesting and suggestive.

A cardinal point in this philosophy may be expressed in the phrase, 'Scepticism of the Instrument,' and is summed up by Mr. Wells as follows :—

The presumption to which biological science brings one is that the senses and mind will work as well as the survival of the species may require, but that they will not work so very much better. There is no ground in matter-of-fact experience for assuming that there is any more inevitable certitude about purely intellectual operations than there is about sensory perceptions. The mind of a man may be primarily only a food-seeking, danger-avoiding, mate-finding instrument, just as the mind of a dog is, just as the nose of a dog is, or the snout of a pig.

Now, at first sight it is a little difficult to understand how the mind, if it be primarily merely a food-seeking, danger-avoiding, mate-finding instrument, can manage to build up the vast, complicated system of knowledge styled 'biological science': still less how it can be the trustworthy means of establishing the whole hierarchy of Science, physical, sociological and mathematical. But Mr. Wells sees no difficulty here. On the contrary, he assures us that he accepts as valid 'nearly all the general propositions of modern science.' It is chiefly in relation to religious and moral questions that the mind as an instrument fails. 'I do not think,' he says, 'that any general proposition



partaking largely of the nature of fact can be known about these things (i.e., ethical and theological matters). There is nothing possessing the general validity of fact to be stated or known.' He does not, therefore, believe in a personal God, nor in personal immortality. His scepticism spares few tenets of the Christian creed.

It would be a mistake, however, to suppose that, because Mr. Wells accepts Science and rejects Christian Theology and Ethics, he has no beliefs at all on moral and religious questions. He tells us how he arrives at these beliefs, and what they are. 'I make my beliefs as I want them. I do not attempt to distil them out of facts as physicists distil their laws. I make them thus and not thus, exactly as an artist makes a picture so and not so.' After reading this description of the process of fashioning beliefs, we shall not be surprised to find a certain vagueness about the result. Mr. Wells' most comprehensive article of faith is that the whole universe forms a scheme in which he and every part are ultimately important.

I assert [he says] that I am important in a scheme, that we are all important in that scheme, that the wheel-smashed frog in the road and the fly drowning in the milk are important and correlated with me. What the scheme as a whole is, I do not know: with my limited mind I cannot know. . . . I use the word scheme because it is the best available, but I strain it in using it. I do not wish to imply a schemer, but only order and co-ordination, as distinguished from haphazard.

There is a scheme, then, but no author of the scheme, no God. At times, indeed,

in the silence of the night and in rare lonely moments, I come upon a sort of communion of myself, and something great that is not myself. It is, perhaps, poverty of mind and language obliges me to say that then this universal scheme takes on the effect of a sympathetic person—and my communion a quality of fearless worship.

In these moments Mr. Wells might speak of 'God,' but he would have us understand that he means 'a

personification of something entirely different in nature from the personality of a human being.'

In place of a personal God we have this universal 'scheme of Things': in place of a personal immortality we must rest content with the assurance that the human species is to grow 'into the eternally conscious Being of all things.' We are informed by Mr. Wells that

in the awakening of the species, one's own personal being lives and moves—a part of it and contributing to it . . . One's entirely separate individuality is another, a profounder, among the subtle inherent delusions of the human mind. Between you and me, as we set our minds together, and between us and the rest of mankind, there is something, something real, something that rises through us, and is neither you nor me, that comprehends us, that is thinking here and using me and you to play against each other in that thinking, just as my finger and thumb play against each other, as I hold this pen with which I write.

According, then, to Mr. Wells, one's entirely separate individuality is a mental delusion: we are 'parts in a thought process'; our individualities, 'our nations and states and races are but bubbles and clusters of foam upon the great stream of the blood of the species, incidental experiments in the growing knowledge and consciousness of the race.'

I believe [he writes] in the great and growing Being of the species from which I rise, to which I return, and which, it may be, will ultimately even transcend the limitation of the Species, and grow into the Conscious Being, the eternally conscious Being of all things.

The precise meaning of the passages just quoted is in no way clear; nor, again, is it easy to understand Mr. Wells' position with regard to Free Will. 'At the level of common sensation and common experience,' he says, 'there is no more indisputable fact than man's freedom of will'; at the same time he is inclined to believe that from the scientific point of view Determinism is the truth. Thus he thinks 'it is quite possible to accept as true *in their several planes*' both rigid Determinism and Free Will: on the plane of

matter-of-fact experience we have free-will ; on the scientific plane we have no free will. This is as much as to say that our freedom of will is only apparent. If, as a scientific fact, the will is always rigidly determined, and yet in everyday experience it frequently seems to be free, we must conclude that the apparent freedom is really a delusion ; that the sentiments roused by ' conscience ' and the ideas of duty and sacrifice are mere devices of Nature for the furthering of her own ends. We must, therefore, consider that Mr. Wells is ' inclined ' to believe that one's freedom of will—as one's entirely separate individuality—is among the subtle inherent delusions of the human mind.

This brief outline will serve to indicate some of the most important of Mr. Wells' philosophical principles. Prominent among these, it will be noticed, is ' Scepticism of the Instrument '—a scepticism suggested by Mr. Wells in words already mentioned :—

The presumption to which biological science brings one is that the senses and mind will work as well as the survival of the species may require, but that they will not work so very much better. . . . The mind of a man may be primarily only a food-seeking, danger-avoiding, mate-finding instrument, just as the mind of a dog is, just as the nose of a dog is, or the snout of a pig.

Two things are to be especially observed in this passage : first, the statement that the mind may be primarily only a species-preserving instrument ; and secondly, that one is led to this opinion by considerations drawn from biological science. Now, if the mind be primarily only a species-preserving instrument, and quite unreliable when used for other purposes, it cannot, of course, attain to certainty in Ethics and Theology ; but how does it manage to construct the vast edifice of modern science, and biological science in particular ? If the mind be so very untrustworthy, Science must be very untrustworthy ; and if Science is not to be trusted, any presumption to which science may bring us must be not only untrustworthy, but altogether worthless.

We are to suppose (as Mr. Balfour points out in his *Foundations of Belief*) that powers which were evolved in primitive man and



his animal progenitors, in order that they may kill with success and marry in security, are on that account fitted to explore the secrets of the universe. . . . To say that instruments of research constructed solely for uses like these cannot be expected to supply us with a metaphysic or a theology is to say far too little. They cannot be expected to give us any general view even of the phenomenal world or to do more than guide us in comparative safety from the satisfaction of one useful appetite to the satisfaction of another.

If the human mind is essentially unreliable Science must be essentially unreliable. Rationalism, in discrediting Reason, ensures its own ruin. 'There is a thought that stops thought, and that is the only thought that ought to be stopped.' When Reason is sceptical of itself, the case is hopeless. It is the suicide of thought.

But let us for the moment accept Science as Mr. Wells would have us accept it. We are to regard the mind as a blundering tool which works as well as the survival of the species may require, but will not work so very much better. We are also to believe that it will work well enough to establish securely the whole range of modern science, but somehow fails in the prosecution of ethical and theological inquiries. We should expect, then, that Mr. Wells is in possession of a criterion whereby to discriminate between Science and Theology, in favour of the former. What is this criterion? To this question Mr. Wells returns no very satisfactory answer, but such as he does give appears to be this, that in Science we attain 'something positive and emphatic in the way of a conclusion, based on amply repeated experiments, capable of infinite repetition': whereas moral and theological generalizations are 'more arbitrary and infrequently verified.' We may put it shortly by saying that we know Science to be true because, by frequent and accurate observation, we can deduce it from our matter-of-fact experiences.

In *Foundations of Belief* Mr. Arthur Balfour points out the deficiencies and incoherencies of Science, viewed as a logical system; and concludes his criticism with reflections that must prove not a little embarrassing to empirical

philosophers. It may be permitted to give a short *résumé* of the leading arguments in this criticism : arguments which, to be sure, were not in the first instance directed against Mr. Wells, but which (as will readily be seen) lose none of their force and relevancy when so employed. After enquiring into the nature of these matter-of-fact experiences to which Science owes its origin, Mr. Balfour proceeds to discuss the unreasonableness of those who, accepting without reserve the results of scientific induction and hypothesis, proceed to find in Theology and Metaphysics nothing but useless speculation.

What, then, Mr. Balfour asks are these experiences on which Science is founded? They are, for the most part, observations of material objects, and of the behaviour of these objects in relation to each other. These observations supply the immediate data from which all our wider knowledge in the last resort draws its sanction. This evidence of the senses is the sole ultimate evidence of scientific truth ; but it is considered sufficient and as good as any as can well be imagined. Science, therefore, rests, in the main, upon the immediate judgments we form about natural objects in the act of seeing, hearing and handling them, all further scientific knowledge being derived by legitimate inference. Now this account which Science gives of its own origin is not as satisfactory as may at first sight appear. To begin with, this so-called immediate experience of objects is, according to Science itself, not immediate at all. The object experienced is in no direct relation with the experiencing mind, but is separated from it by a very large number of causes and effects which are themselves never experienced ; and among these innumerable causes the object experienced has but a comparatively insignificant place. We may take the illustration that Mr. Balfour describes with admirable clearness.

What are the causes which ultimately produce the apparently immediate experience of (for example) a green tree standing in the next field? There are, first (to go no further back), the vibrations among the particles of the source of light, say the sun; Consequent on these are the ethereal undulations between the

sun and the object seen, namely, the green tree. Then follows the absorption of most of these undulations by the object ; the reflection of the ' green ' residue ; the incidence of a small fraction of these on the lens of the eye ; their arrangement on the retina ; the stimulation of the optic nerve ; and, finally, the molecular change in a certain tract of the cerebral hemispheres by which, in some way or other wholly unknown, through predispositions, in part acquired by the individual, but chiefly inherited through countless generations of ancestors, is produced the complex mental fact which we describe by saying that ' we have an immediate experience of a tree about fifty yards off.'

The example just given may be taken as a type of all the experiences (without exception) on which is based our knowledge of the material universe. Now each one of the causes, physical and physiological, by which the perception of the object has been produced might have been

replaced by some other cause without altering the character of the consequent perception : and that if it had been so replaced, my judgment about the object, though it would have been as confident and as immediate as at present, would have been wrong. Anything, for instance, which would distribute similar green rays on the retina of my eyes in the same pattern as that produced by the tree, or anything which would produce a like irritation of the optic nerve or a like modification of the cerebral tissues, would give me an experience in itself quite indistinguishable from my experience of the tree, though with the unfortunate peculiarity of being wholly incorrect. The same message would be delivered, in the same terms, and on the same authority, but it would be false.

The evidence of the senses would thus prove fallacious : but it would be proved fallacious by evidence of precisely the same kind. Science, therefore, while regarding these sense-experiences as its ultimate premises, must recognize that they are derived from untrustworthy witnesses : yet is ' unable to supply any criterion other than the evidence of these witnesses themselves, by which the character of the evidence can in any given case be determined.'

To this incongruity must be added a second, still more disconcerting. Our sense-perceptions are not merely occasionally inaccurate, they are habitually mendacious. The



great bulk of our immediate experiences of objects are visual : and all visual experiences are, according to Science, erroneous :—

Colour is not a property of the thing seen : it is a sensation produced in us by that thing. The thing itself consists of uncoloured particles, which become visible solely in consequence of their power of either producing or reflecting ethereal undulations. Colour and brightness are mere feelings roused in the organism of the observer : and it is 'not only incorrect but unmeaning to attribute them to the material objects.' This, then, looked at from the point of view of a theory of Science, is quite a paradox. Science is based on what we know immediately : and what we know immediately is 'appearance.' Unless appearances are to be trusted, why should we believe in Science ? If Science is true, how do we trust to appearances ?

The assurance we obtain by pure observation that bodies are coloured is of precisely the same kind as the assurance we obtain from the same source that they are extended and resisting. There is nothing in the observations themselves to suggest any principle of distinction between those which, according to Science, are trustworthy, and those which are not. Science rests on the principle 'seeing is believing' : yet one of the first things it teaches us is not to believe what we see :—

What sort of a system is that which makes haste to discredit its own premises ? In what entanglements of contradiction do we not find ourselves involved by the attempt to base Science upon observations which Science itself asserts to be erroneous ? By what possible title do we proclaim the same immediate experience to be right when it testifies to the independent reality of something solid and extended, and to be wrong when it testifies to the independent reality of something illuminated and coloured ?

It may be argued that as the colour element in our visual perceptions is merely a feeling or sensation, the same may be said of every element in every perception : that we have no immediate experience of independent things, as has been supposed : that, in short, we only know directly our mental states, and all else is a matter of inference, [a hypothesis

to account for our having such and such sensations or ideas. In this way the leading philosophic empiricists—Hume, J. S. Mill, Herbert Spencer, and Professor Huxley—have tried to get round the difficulties that arise from the incoherencies of Science as a system of belief; but they have ended by sweeping away altogether the universe as conceived by Science and substituting in its place ‘a private reality of their own.’ The material world, according to Mill, is nothing but ‘permanent possibilities of sensation’; and, according to Herbert Spencer, nothing but ‘the Unknown and Unknowable.’ A careful analysis of these curious philosophical schemes will show that they are impracticable and quite inconsistent with the teaching of Science, as men of Science understand it: nor is it likely that Mr. Wells would demur to this opinion.

So far we have considered the deficiencies of Empiricism with regard to the ‘immediate judgments of sense-perception.’ But there is another way in which Empiricism fails, and one hardly less important. In order to erect a scientific system worthy of any consideration at all, we need not merely isolated experiences but general principles by which these isolated experiences may be co-ordinated. One of these necessary principles is that of Universal Causation, sometimes termed ‘Uniformity of Nature,’ the principle that the same cause is invariably followed by the same effect—that Nature is governed by immutable law. How do we arrive at this principle of Universal Causation? Certainly not by observation. Mr. Wells, indeed, writes that ‘if you make the least penetrating of scientific analyses you perceive a world of inevitable consequences, a rigid succession of cause and effect.’ You perceive nothing of the sort. Perfect uniformity is never observed. The most careful experiments made by the most competent investigators never show identical results. We, of course, attribute the want of observed uniformity to the errors of the observer. But what does this imply? It implies (as Mr. Balfour ably expresses it) that

we bring to the interpretation of our sense-perception the principle of causation ready-made. It implies that we do not believe the

world to be governed by immutable law because our experiences appear to be regular: but that we believe our experiences, in spite of their apparent irregularity, follow some (perhaps) unknown rule because we first believe the world to be governed by immutable law. But this is as much as to say that the principle is not proved by experience, but that experience is understood in the light of the principle.

And even if we did observe phenomena succeeding each other, according to some obvious and undeviating order, by what possible right could we extend the observed uniformities to the utmost limits of the universe? Why because one particle of matter has a certain property should all particles have the same? How can we rise from the particulars given in our experiments to the universality which, as a matter of fact, we attribute to the Law of Causation? In *Principles of Science*, Professor Jevons, on no very intelligible grounds, assumes the general law of causation; and this is what Mr. Wells seems to do. So far from perceiving, by the least penetrating of scientific analyses, 'a world of inevitable consequences, a rigid succession of cause and effect,' Mr. Wells must hold it on faith.

As with our judgments based on the 'immediate evidence of the senses,' so also with the judgments which form the general principles at the root of all science, no rational justification for them can be established from experience alone. And if so, how much better off is Science than Metaphysics and Theology? If Reason bids us reject Theology, she bids us do the same with Science. This is evident from what we have already seen of the deficiencies of scientific proof: still more evident when we examine fundamental scientific ideas considered in themselves. Ideas which seem clear and simple so long as we deal with them for practical purposes, appear to vanish under critical investigation.

What, for example, is a 'material thing'? Is it merely the sum of its qualities, or is it something more? Is the independent existence of qualities even conceivable? And if a material thing is something more than the sum of



its qualities, how are the qualities related to the 'something more'?

Can we (to pursue the line of questioning suggested by Mr. Balfour) on reflection regard a 'thing' as an isolated 'somewhat,' an entity self-sufficient and potentially solitary? Or must we not rather regard it as being what it is in virtue of its relation to other 'somewhats,' which, again, are what they are in virtue of their relation to it, and to each other? And if we take, as I think we must, the latter alternative, are we not driven by it into a profitless progression through parts which are unintelligible by themselves, but yet which obstinately refuse to coalesce into any fully intelligible whole?

Obscurities like these which surround the notion of a 'material thing' are to be found in the case of all other ultimate ideas. No one has insisted more on these obscurities than Herbert Spencer himself: matter, force, space, time, etc., are each in turn shown by him to involve contradiction, to be (in his own phrase) 'unthinkable.' But if this be so, in what better plight are these 'ultimate scientific ideas' than 'ultimate theological ideas'? And if 'ultimate' scientific ideas are unthinkable, why should we consider 'proximate' scientific ideas more intelligible? 'Proximate' scientific ideas can hardly be more substantial than those on which they ultimately depend. And if in spite of the 'unthinkableness' of scientific concepts that are ultimate we are to retain those that are proximate, why are we to regard Science as rationally and firmly established, and to banish Theology to the regions of the Unknown and Unknowable?

Mr. Wells' scepticism is, in truth, more far-reaching than he would care to admit. As has already been pointed out, he is 'inclined' to believe in a rigid determinism of the will. He does not 'harshly believe it,' but allows 'its large plausibility.' 'On the scientific plane,' he writes, 'one is a fatalist, the universe a system of inevitable consequences.' But if we have no free will, neither have we free reason. For if the will be rigidly determined by the laws that govern the universe, our beliefs and what we call our knowledge must be equally so determined. Our beliefs, in so far as

they are the result of reasoning, must be founded on premises which have been produced by material causes ; and these material causes are due, in the last resort, to a primordial arrangement of atoms and non-rational forces. But atoms and non-rational forces have no tendency to truth rather than falsehood : on the contrary, would be more inclined to turn our wrong premises, as 'truth is single and error manifold.' Our beliefs, therefore, whether regarded as premises or conclusions, are certainly untrustworthy and probably false. And as all our premises and conclusions must suffer from the same uncertainty, we can never for certain detect our errors. Hence we cannot be sure about our certainty, nor be certain about our doubts. We are thus driven to a scepticism which is even sceptical about itself : 'which neither kills belief nor lets it live.'

Some may argue that the theory of evolution, through its principle of natural selection, provides machinery which, by fostering sound doctrine and discouraging error, must tend gradually, 'and in the long run, to produce true opinions rather than false.' But this view of the matter offers no solution of the difficulties just raised. The case may be stated thus : All phenomena whatever, as Science assures us, are evolved according to natural laws, and among other phenomena, human beliefs. History is littered with beliefs which have served their purpose at certain stages in the evolution of humanity, and then been cast aside and forgotten. The mythologies of paganism, the crude medieval systems of astronomy, the fanciful speculations of eighteenth-century thinkers—these are examples of the multitude of beliefs which influence mankind, and pass away, giving place to others, equally false, and as firmly confided in. Comte has traced this progress through three main phases—theological, metaphysical, and scientific : and contemporary evolutionists proceed to show that the scientific phase has reached its highest development in the opinions which they themselves profess. But if in this way modern beliefs represent a stage in the evolution of humanity, if they are all under the action of a mechanical and inevitable

law of development, how are we to tell which of them are to be regarded as permanent and which of them still in process of change? All of them may be, and a great number must be, merely transitory, and therefore false. Why not the particular belief in evolution? Because it is demonstrated by 'approved scientific methods'? But scientific method must rest on certain ultimate principles—certain fundamental beliefs—which, because they *are* ultimate and fundamental, cannot themselves be arrived at by any scientific method. All demonstration must finally depend on something which is not demonstrated but assumed: and these undemonstrated beliefs are necessarily rendered doubtful by the reflection that, for anything we know to the contrary, they may still be in process of evolution. Yet it is only by starting from these assumptions that we arrive at the theory of evolution at all. If, then, the theory of evolution be regarded as certain, its ultimate premises, and therefore the theory itself, is uncertain. Such a theory, however plausible it may be made to appear, is incoherent.

It may be urged that we know these fundamental beliefs to be true, because they are the outcome of 'reiterated and uncontradicted experience acting on successive generations of mankind.' But this line of reasoning will not do. It does not follow that if, according to the theory of evolution, its ultimate premises are true, that therefore they are true. The interaction between 'organism' and 'environment' must be proved (if proved at all) by these fundamental beliefs: it cannot therefore furnish a reason for believing them to be true. Nor does it avail to say that evolution is looked upon only as a highly probable hypothesis and not as scientifically demonstrated: for 'no scientific hypothesis can be even probable, which if it were suddenly to become certain would be self-contradictory and therefore impossible.' Evolutionists, Mr. Balfour says in *Philosophic Doubt*, 'seem somewhat to resemble an astronomer who should base his whole theory of the real motion of the heavenly bodies on the supposition that his own planet was at rest: but should unfortunately discover that one of the



necessary conclusions from his theory was that his planet, in common with all the others, was in motion.'

Science—empirical science—is uncertain in its methods and ultimate premises, and contradictory in its conclusions. No wonder that Hume, while telling the theologian that the most solid foundations of religion are 'faith' and 'revelation,' should sneeringly inform students of Science that theirs is the only kind of knowledge worth pursuing. Hume's sarcasm is justified if the mind be 'primarily a mere food-seeking, danger-avoiding, mate-finding instrument, just as the mind of a dog is, just as the nose of a dog is, or the snout of a pig.' An instrument like this is no more competent to establish Science than to frame a satisfactory system of Ethics or Theology. In this respect Science and Theology stand pretty much on a level. We may reject them both or keep them both : but clearly we may not prefer Science to Theology on the plea of its having a more rational and secure basis. One difference there undoubtedly is between these two great branches of human inquiry. Fundamental scientific beliefs are characterized by an 'inevitableness' which is lacking to the first principles of religion. The assurance we have respecting what we see and handle is absolutely coercive. But the difference is hardly a relevant one. It does not enable us to attribute a higher degree of certitude to Science. The necessity 'rules us by violence, not by right. Even while we submit to it we may judge it : and in the very act of believing we may be conscious that the strength of our conviction is far in excess of anything which mere reasoning can justify.' The fact is brought out in clearer relief when we note that all the great masters of speculative thought—whose genius is universally admitted—have always assumed the inadequacy and unreliability of the information that reaches us through the channels of the senses. Plato, Leibnitz, Spinoza, Kant, Hegel and others—however unsatisfactory their own particular systems may be, and however much they may differ among themselves—refuse to tolerate the arbitrary limitations of any Naturalistic creed.

It is the practical needs of our human nature that compel

us to 'accept as fact a material world more or less in correspondence with our ordinary judgments of sense-perception.' Other and higher needs of our nature lead us, though less drastically, to a belief in the dignity and sanctions of the Moral Law, in the existence and active providence of a Personal God. A philosophy that traces our nature and our beliefs to the sole action of non-rational forces must land us in hopeless scepticism. Science, as well as Theology, postulates 'a Rational Ground or Cause of the world, who made *it* intelligible and *us* in some faint degree able to understand it.' The hypothesis of a Rational Author of the universe is not without its perplexities. But it is not self-contradictory. It does not attempt 'the impossible task of extracting reason from unreason.' Nor does it degrade the human mind to the condition of a mere species-preserving instrument, 'just as the mind of a dog is, just as the nose of a dog is, or the snout of a pig.'

CLAUDE HARRISON.

## SOME CEREMONIES OF SOUTH INDIAN HILL TRIBES

WHEN, in 1823, the celebrated missionary, Abbé Dubois, published his great work on *Mœurs, Institutions et Cérémonies des Peuples de l'Inde*, after a residence of thirty years among the natives, chiefly of Southern India, all that was known of the Nilgiri hills he records in the following words :—

There is one of these holy mountains in the Carnatic, in the district of Combitore. It is called 'Nilagimiarlai,' and is believed to be the highest in the province. For this reason alone the Hindus have made it a *pumyas-thala*, or place of virtue, the custom being to deify everything in nature. As it is difficult to reach the top of the mountain, a view of the summit alone is considered sufficient to remove the burden of sin from the conscience of any person who looks upon it with this intention.<sup>1</sup>

The Nilgiri or Blue Mountains are formed by the converging of the Eastern and Western Ghauts, the respective boundaries of that great triangular table-land, the Deccan. They now form a district of the Madras Presidency, and can be reached by train from the city in about eighteen hours. These interesting hills were explored by Europeans about 1820, and a report on their adaptability as a sanatorium for Europeans was, some years later, submitted to Government. 'The climate of these hills,' says the report, 'is, perhaps, the finest known between the tropics.' For three months of the year it is cold, but during nine it is delightful the whole day. In the morning it is below 50 degrees, never above 60 degrees, nor on the hottest day does the temperature ever rise above 75 degrees. Hence Ootacamund, 7,400 feet, the highest municipal town in India, is the seat of the Madras Government for six or eight months of the year, and hence the range on which it stands

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<sup>1</sup> Vol. i. p. 199.



has rightly been called 'the Delectable Mountains' with their

"... sweet half English Nilgherry air."

Doubtless, had Tennyson visited Southern India he would have devoted to its manifold mountains more than this incidental half line. For truly, the scenery of the Nilgiri plateau, the home for centuries of those strange tribes, some of whose peculiar customs I shall recount, is magnificent. The interior of the plateau consists chiefly of grassy undulating hills, divided by narrow valleys, which invariably contain a stream or swamp. In the hollows of the hill-sides nestle beautiful, small woods, locally known as sholas. Seldom is so much variety of beauty found in so small a compass. From the bleak heights of the Kundas, with their storm-beaten, moss-hung woods and rank, coarse grass, to the springy turf and many coloured sholas and the tropical vegetation of the western slopes, every half-dozen miles bring one to a new climate and new scenery. It is, however, the view obtainable over the edge of the table-land that is most striking, on account of the extreme abruptness of the descent and the extensive panorama one beholds. In his recently published *Autobiography*, the late Sir William Butler describes the scene as he beheld it some fifty years ago :—

I know no change [he writes] so satisfying to body, soul, and sense as that which a man experiences when, in the month of May, he passes from the Indian plains to the Indian hills. No transformation scene can equal the change. Every wearied sense, exhausted in the Indian heat of the lower lands, springs at once into life. The air of India, when breathed at an elevation of from six to eight thousand feet, is purity and freshness and life itself, and nowhere does it combine all those attributes in a higher degree than in the Nilgherry mountains, the Blue Hills. Blue they are when seen from a distance, but green when reached, and what is more, green with all the verdure and scent of the grasses and the flowers of Europe. That is the touch which makes us at once at home in these beautiful hills. Through the rose-hedges at Conoor flits the small wren. Black-birds and thrushes build their nests in the gardens at Ootacamund

and the lark sings high and clear in the radiant atmosphere over Dodabetta. All our rare shrubs are there, too, in tree form, the heliotrope, azalia, myrtle, magnolia, gardenia, grow to forest heights. From fifty to sixty inches of rain fall annually on this lofty tableland, from which innumerable streams and water-courses wind their opposite ways to rivers which fall into the Bay of Bengal on the one side and the Arabian Sea on the other.

Once the level of the upper hills is gained, the ground is practicable for riding almost in any direction, and from the ramparts which look down upon the plains of the Carnatic on the east to those which overhang the coast of Malabar on the west, some six hundred or seven hundred square miles of rolling tableland lie open to the traveller. If the Garden of Eden was not here, it might have been. There are points on the eastern ramparts of this paradise from which, in gardens hung with jasmine, one can sit and look down from a clear and bracing atmosphere upon a hundred miles of the fever-quivering plains of Southern India, seven thousand feet below.<sup>1</sup>

#### THE TODAS

The least numerous of the Nilgiri hill tribes are the Todas. They number not more than eight hundred at the present day. They are, unfortunately, a decadent race, the reasons for which are matter for conjecture among anthropologists. The Todas are singularly handsome, tall and athletic, with Roman profiles, beautiful teeth and large, full, expressive eyes. They never wear head-covering, but allow their jet-black hair to grow in curly locks, which they anoint with ghi (melted butter). In addition to a loin cloth the men wear a sheet of white calico stuff or a large blanket in the manner, somewhat, of a Roman toga. The women are equally handsome, many of the girls being really beautiful, with their long tresses falling down their backs over the long white cloth which envelopes the whole body.

Toda dwellings called 'munds' are generally situated on some commanding slope on the border of a forest. Their huts, which are peculiarly constructed and well roofed, contain only one room, to which admittance is gained by a

<sup>1</sup> Chap. iii. pp. 38, 39.

door of about two feet in height. They are oval, pent-shaped constructions about ten feet high, eighteen feet long and ten feet wide. In this apartment the whole family huddle together. It can readily be imagined that life under such conditions—and the Todas are polyandrous—does not tend to cleanliness or to chastity. The men, who herd large numbers of buffaloes, which is the only animal they rear, are seldom at home by day. They wander freely with their herds over the hills of which they are the aborigines, honest, brave, and inoffensive, content to the verge of indolence, exercising an over-lordship which is fully admitted by their neighbours, the Badagas, Kotas, and Kurumbas.

*Religion.*—The religion of the Todas seems to be a system of distorted Theism. They keep no idols. They salute the sun on rising. They worship Kaduval, creator of earth and sky, to whom they pray night and morning. They reverence the hunting-god, Belakin, and Hiriadiva, the bell-cow god. Of late years they have begun to imitate some of the religious practices of their Hindu neighbours. The head of the Toda priesthood, of which there are five grades, is the Palal. Palals live a celibate life during their years in office. They may, however, retire and marry at any time with the permission of the headman. They then lose all authority. The duties of the Palal are : to open the cattle-pens and send the cattle to pasture in charge of the Kaltamck, one of the minor order of clergy ; to perform ' puja ' or worship to the bell-cow god ; to salute and milk the herd on its return from grazing ; to make butter and sell it ; and to settle disputes. The Todas believe that a man who has led a bad life shall return to earth in the guise of a giant or a demon to worry living Todas.

*Marriage.*—As a detailed account of the marriage customs of these heathen tribes would but offend Christian ears I shall omit what is shocking in them. When a marriage has been arranged between Todas, the future husband gives a cloth, their ' dress,' and salutes, head to foot, the parents and brothers of the prospective bride. She, too, bows down with face to the ground and the husband-elect places, first his right, and then his left, foot on her head. Infidelity is compensated



for by the fine of a buffalo or by divorce, and the payment of the amount of the first marriage to the second husband should the woman marry again. Should a Toda girl die before marriage her corpse is made to go through a form of marriage, a small boy being selected for the ceremony. Having found some twigs of a certain shrub (*sophora glauca*) and a certain grass, he places them with limes, plantains, rice, jaggery and butter in the cloth of the dead girl. Wrapped from head to foot in his own long cloth the lad is seated outside the hut, where he has to remain till the following day, being closely watched throughout the dreary night by friends and relations.

Todas, as already remarked, are not numerous. Their number is steadily decreasing. For this sad fact the custom of fraternal polyandry, which has been rife among them, is, by competent authorities, made to account. But to it we must add the worse custom of infanticide. Dr. Rivers, a local authority on this subject, writes : ' There is no doubt that in former days the polyandry of the Todas was associated with female infanticide, and it is probable that the latter custom still exists to some extent, though strenuously denied.' It is rarely that there are more than two or three children in a family ; one is common, while in many families there are none. Mr. Edgar Thurston, Curator of the Madras Government Museum, was assured by the Todas of Ootacamund that polyandry did not exist amongst them, but that it was practised by the jungle Todas of Pykara. When, however, he visited the latter place he was strongly assured that no woman of the neighbouring mund had more than one husband, but that polyandry prevailed at Ooty.<sup>1</sup>

Another interesting fact connected with Toda marital customs is the way in which it is settled who shall claim the paternity of the offspring. The ceremony is called ' the giving of the bow-and-arrow.' At new moon the woman, accompanied by the brother who wishes to claim paternity and several relations and friends, betakes herself to a shola, where, seated under a kiaz tree, the man presents

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<sup>1</sup>Cf. *Bulletin No. 4*, ' Anthropology.'

her with a mock bow-and-arrow, which she reverently puts to her forehead. By this simple ceremony the man is declared the father of her children, and so binding are the consequences that even should he die and other children be born to his brothers by her, they, nevertheless, are known as his children.

*Birth Ceremonies.*—Should the child be a male its face is wrapped up in cotton cloth till the ceremony of 'opening the face,' as it is called (*mutertard primi*), takes place three months later at the sacred dairy or palchi. Before the birth of a child the prospective mother is branded on the hands in four places. Of Toda women, only those who have borne one or two children are tattooed. But branding as a curative agency is very common throughout Southern India. A Toda branded on the shoulders with red-hot embers of the sacred fire-stick (*letsaca*) believes he is thereby enabled to milk his buffaloes more easily. But superstition accompanies the Indian from cradle to grave. Should a child be so unfortunate as to be born under an unlucky star, it is ruthlessly abandoned or strangled or drowned, for if it were to live it would, it is believed, bring bad luck upon its parents. But such inhuman practices, since declared punishable by law by Lord Wellesley, are not, nowadays, public or frequent, though to Government officers and missionaries who have to deal with rural populations such crimes are not unknown, if somewhat difficult to bring home in the matter of guilt.

*Burial Ceremonies.*—The Todas have two burial ceremonies, the 'green' and the 'dry.' An account of the former must here suffice. A procession of all the inmates of a mund or village is formed and the funeral cortège, preceded by Kota musicians, slowly wends its way over the hills to the vicinity of a specified shola, where the corpse, covered with a cloth, is deposited on the ground, face upwards. It is then saluted by the men, women, and children with great manifestations of grief. A few stalwart young men now set off to catch a buffalo for the sacrifice, which being done, often to their bodily hurt, the animal is dragged before the little temporary hut in which the corpse, meanwhile, has been

placed. The animal is now despatched with an axe, while the Kota band discourses dismal music. Sometimes three buffaloes are kraalled the day before the funeral, and one chosen, to whose neck is attached a bell. On the funeral day all three are blindfolded and led up to the corpse. One has its side cut open and its blood sprinkled over the corpse. The animals are then killed and handed over to the Kotas. Toda funeral rites are not quite uniform. In some cases the corpse is brought out and its feet placed between the horns of the dead animal. The body is then taken to the funeral pyre and burned amid much grief. After the burning the skull is wrapped up in the bark of the 'tud' tree and taken to the house of a relative till the second ceremony is performed.

#### THE KOTAS

Kotagheri, the smallest of the three Nilgiri hill stations, takes its name from the tribe of Kotas who inhabit the locality. According to Dr. Oppart, the term 'Kota' is derived from the Gauda-Dravidian word Ko (*Ku*) mountain, and the Kotas belong to the Gaudian branch. Picturesquely situated at the head of a fine, deep pass in which are many tea and coffee estates, Kotagheri stands some 6,500 feet above sea-level. The Kotas come next to the Todas in length of residence on these hills, and own six villages. They form large communities, each village consisting of from thirty to sixty huts, ranged in streets. Their huts are built of mud, brick, or stone, with a front verandah supported on two poles, under which the Kota loves to smoke his cheroot, discuss village politics, and, not infrequently, sleep off the effects of drink.

In stature the average Kota is five feet two and a half inches, and the female four feet ten inches. They are copper colour, though black specimens are not uncommon. They do not observe caste. They are hereditary craftsmen—carpenters, tanners, rope-makers, musicians, etc.—callings as necessary to the agricultural Badagas as to the grazing Todas. For their services they receive from the Todas buffalo meat and ghi, and from the Badagas doles of grain.



But for music at marriages and funerals they require payment in coin.

On account of their filthy habits they are rigorously excluded both by Todas and by Badagas from their temples. The Kotas justify their filthy habit of carrion-eating by saying they were commanded by the god Kamataraya so to feed. What seems strange, but is quite true, is the fact that they thrive best during the prevalence of cattle murrain.

*Marriage.*—Unlike the other hill tribes of whom I write, the Kotas are monogamists, though their marriage ceremonies can scarcely conduce to morality.

The Kotas are prolific, but a large number die in childhood. Polyandry is not practised, but polygamy is fairly common.

*Religion.*—Religion among the Kotas is represented by a *dévadis* and two *pujaris*, the former appointing the latter when under ‘inspiration’ in the temple. They are allowed to marry and live with their wives. The office of the *dévadis* is hereditary. Kota temples are of the simplest kind—a thatched roof supported on stone pillars or poles will suffice. They have no idols, but worship Siva the Destroyer and his consort, Parvati, under the names of Kamataraya and Kalikai. Their tradition is that the former, while profusely perspiring one day, wiped from his forehead three drops out of which he formed the three most ancient tribes of the Nilgiri hills, the Todas, Kotas, and Kurumbas.

The ‘Death Ceremonies’ of the Kotas are but a feeble imitation of those of the sturdy Todas, with the added degradation of drunkenness.

#### THE BADAGAS

The Badagas are by far the most numerous, prosperous, and progressive of the Nilgiri hill tribes. They number about thirty thousand. They are the cultivators *par excellence* of the soil on these hills, though among them are to be found bricklayers, carpenters, barbers, etc., and many now work on tea and coffee estates and in the Government Cordite Factory at Arvenghat. It has often been a source of interest to me to watch them, chiefly the women,

tilling their extensive 'holdings' and weeding, in crouched position, with skill and dexterity, their grain crops.

Like the natives of the plains they live a communal life in well-constructed villages which dot the hills in the midst of cultivation. They seem to be anxious to improve on their own methods and to adopt whatever they find useful in the suggestions or implements proposed by the Nilgiri Horticultural Society.

Their settlement on these hills dates back to the fall of the kingdom of Vijianagar, memorable in the history of Southern India. That they fled from Badaga-Nully, in the Mysore Province, on the appearance of the dreaded Tippu Sultan, is maintained by some writers.

Their language is a mixture of Canarese. The Badagas being the last comers agreed to pay the tribes in possession a fixed tribute. Not only to the Todas, but likewise to the Kotas and the Kurumbas, have they to pay tribute proportionate to their yearly produce. The Kurumbas, strange to say, are their nominal legatees, and should a Badaga die without male issue his property, after funeral expenses have been paid, passes to the nearest Kurumba community.

The Badagas are of a dark olive complexion. The young women are often handsome. Open-air life and coarse, plain food make them a sturdy, hardy, working tribe. In the Conoor district the women do most of the tillage, the young men finding employment on Government roads or at the Cordite Factory. Unfortunately, of recent years many have become addicted to drink. Beer, for the manufacture of which there are three breweries on these hills, is the Badagas' favourite beverage. This growing habit, debasing in its effects on the natives, is much to be deplored, and Government, which seeks to help them in other matters, should protect these poor tribes from what must eventually lead to the ruination of a fine class of agriculturists.

*Religion.*—According to S. M. Natesa Sastri of Madras, who has carefully studied the subject of their religion, the Badagas are polytheists and demonolaters, and worship, besides a select number of major, some thirty-three crores

of minor gods! They worship in a variety of ways—in roadside shrines and in large temples at the foot of the hills where they are joined by Hindus.

All ailments and mishaps they attribute to the influence of devils.

*Marriage Ceremonies.*—It is not uncommon for a Badaga of the Nilgiris who is in want of a labourer to promise his daughter to the son or other relative of a needy neighbour. These engagements once entered upon, the intended bridegroom serves the father of the betrothed as one of his family till the girl is grown up, when the marriage takes place and he becomes a partner in the property. Bride-stealing is common in many castes of Southern India, and more disputes arise from this than from any other cause. A young Badaga who cannot obtain the girl of his choice simply makes known that he will have her or gaily die in the attempt. Thereupon some of his friends, placing him at their head, and, if necessary, seeking aid from the Todas, proceed to the girl's village and forcibly carry her off. This sort of marriage is held to be quite valid. As may readily be supposed, in ordinary circumstances the bride-elect has no 'say' in the choice of her husband. The necessary arrangements are made between the parents. The bridegroom's father pays the sum of about one hundred rupees (£6 10s.), and the girl is then taken home, where, during the marriage-feast, she is privileged to eat out of the same brass vessel as her mother-in-law! If, however, after a few months' trial she is not satisfied with her partner, she is at liberty to return to her parents, with whom she stays till another young man, smitten by her charms, comes forward to buy her. Husband No. 2 now pays to husband No. 1 the hundred rupees as 'damages.' Later on the remainder of the marriage ceremony is performed. The whole village is invited to a grand feast, at which each guest drops into a brass vessel from four annas (4d.) to one rupee (1s. 4d.). The amount thus collected goes to the bridegroom to cover marriage expenses. The custom would seem an improvement on the white man's practice of giving useless presents. In the



evening the husband ties the 'thale,' consisting of four or five black threads, round the neck of his bride, being careful that it does not touch her head, which would be a bad omen. The following morning the 'thale' or marriage token is taken off the wife's neck and thrown on the roof of the hut. This completes the Badaga marriage ceremonies.

When the child is eight days old, the Monegar, or headman of the village, chooses a suitable day for the 'christening.' Monday and Wednesday are lucky days. Children born on a Monday are exempt from flesh-eating. On the appointed day boiled grain dipped in milk is put into the infant's mouth and a family name is given it. The ceremony concludes, like all their ceremonies, with a big 'spread' to all the guests.

*Death Ceremonies.*—When death is drawing near a gold coin called *Viraraya-hana* or *fanam* dipped in ghi is given to the dying man to swallow. If he is too far gone, the coin is tied round his right arm. If the coin slip down or is swallowed easily it is well with him—he needs both gold and ghi for his long journey, the one to sustain his strength, the other to fee the guardian of the fairy-like bridge that spans the dreaded river. It is said, and is credible, that no one who has swallowed the *Viraraya-hana* has been known to live—his time has come and go he must. If, after death, the coin is still in the man's mouth, it is taken as a bad omen, and is attributed to the unfortunate Kurumbas, who are made to suffer for it.

The 'heaven' of the Badagas lies among the Kunda range of hills over against Ooty.

After death the corpse is kept in the house till the funeral car is completed and all the relatives have assembled. Cremation must not, however, take place on a Thursday. News of the death is sent to distant hamlets by one of the lower Badagas, who, when nearing the hamlet, cries, 'pho, pho!'

On the appointed day the corpse is taken on a charpoy or native cane-cot to an open space, and a buffalo led three times around it. The right hand of the corpse is passed three times over the horns of the animal; milk is drawn

and poured into the mouth of the corpse. The funeral car is composed of either five or eleven tiers, decorated with cloths or streamers. One tier is decorated with black chintz. But for this display the poor are allowed to substitute a cot and an umbrella. The body, washed and dressed in coat and turban and a new cloth, is now placed in the lowest story. Two silver coins—rupees answer the purpose—are stuck on the forehead. Beneath the body are placed a crowbar and baskets containing parched paddy, jaggary, samai flower, etc. The women now rush to the cot, sit round it, and keep up a long, weird wailing for some hours, one set being relieved by another. Then the Badaga men come forward and salute the corpse by touching the head. The women are allowed to touch the feet only. This done, a dance is formed round the bier to the strains of Kota music. The dancers are dressed in gaudy petticoats and small turbans worn for the occasion. If the corpse be that of a very old man, his feet are washed and the water drunk by the men of the village, who believe that thereby their sins are forgiven. In the afternoon the car is brought near to the burning ground, and is hacked to pieces to make the pyre. The widow of the deceased, now dressed in red, takes off her 'nose-screw,' some wire from her ear-rings, and a lock of her hair, and ties them in the cloth of her dead husband. This denotes the severance of the marriage tie.

The 'after-death confession,' a most touching and impressive ceremony, is next made by an elder of the tribe, who stands at the head of the corpse. By a conventional mode of expression the sum total of sins a Badaga may have committed is said to be thirteen thousand. Admitting the deceased had committed them all, the reciter cries, 'Stay not his flight to God's pure feet,' and the whole assembly chant the refrain, 'Stay not his flight.' The reciter now enters on a long catalogue of misdeeds, such as 'the estranging of brothers,' 'shifting the boundary line,' 'sweeping with a broom,' telling lies, going to sleep after seeing an eclipse, using a calf set free at a funeral, showing the wrong path, ingratitude to the priest, to all of which the audience make answer, 'It is a sin.' At the end of the

long enumeration comes the hopeful prayer, 'Though there be thirteen thousand such sins may they all go with the calf set free to-day.' Then follow a series of touching aspirations: 'May his sins be forgiven; may the door of heaven be opened,' etc. Then, amid solemn silence, the calf is let loose and, like the Jewish scapegoat, it may never be used for any sort of work. The corpse is next placed on the funeral pyre, which is lit by the eldest son, while he says, 'Being begotten by my father and my mother I, in the presence of all and the Deva, set fire to the head after the manner of my ancestors.' Next day the ashes are searched for the wife's jewels and for the little gold coin, with which the Badagas are very reluctant to part. Two days after the funeral the relatives shave their heads and beards in token of mourning.

At long intervals the Badagas celebrate an elaborate memorial service. In 1901 several thousands assembled on the Nilgiris to witness it, and the peculiar rites occupied many days. On the last day a goat was sacrificed to the deity.

The habit of earth-eating is common throughout Southern India. In Cochin the estate coolies, especially the women, are much addicted to it, and will eat as much as one and a half pounds in a 'meal.' The results are, in such cases, finally fatal. After a time the 'patient' swells up in face and abdomen, refuses all food, and dies. Mill-Hill missionaries who have laboured in Central Africa and in Borneo tell me that the women in those parts also often consume certain kinds of earth. The Badaga women are earth eaters, but in moderation.

The ceremony of fire-walking, which is common throughout Southern India, is also observed by the Badagas, who begin by propitiating the god with a four-anna piece (4d.), a cocoa-nut, camphor, incense and flowers. Should anyone suffer hurt from the fire it is taken as indicative of the displeasure of the god.

While those who take part in this exacting ceremony resent the suggestion that they use any pain-killing balsam, it is known that a decoction of the *aloe indica* is sometimes



used. The fleshy parts of the leaves when bruised and squeezed through flannel give a glutinous juice like castor-oil, which, when rubbed on the hands, feet and hairy parts of the body, renders them immune from burning, at least for a time.

#### THE KURUMBAS

With the timid jungle Kurumba tribe, the casual or 'hot-weather' visitor to the Nilgiris seldom comes in contact, for the Kurumba keeps to his native haunts, 'far from the madding crowd.' They are the hunters *par excellence* of the hills, but likewise a source of trouble to the Game Association. When, however, they take service—and they are exceedingly reluctant to 'sign on' or bind themselves in any way—they make excellent shikaris, game-watchers, and trackers. On all other matters they are extremely ignorant, caring only to live their wild, improvident life in the jungle, where they gather produce, trap game, and manufacture benzoin (*samburani*) by tapping a tree called dupa.

The Kurumbas are polyandrous, many brothers taking the same woman to wife.

Scattered over the hills are the remains of large cromlechs and dolmens. It is the custom with this tribe, after cremating their dead, to select a certain bone from the charred remains and to place it in one of these 'dead-houses.'

By the other hill tribes these poor, inoffensive creatures are believed to be necromancers and in league with the devil. To them, therefore, the Badaga has recourse when he tills his fields, otherwise he thinks his harvest will not prosper. Both Toda and Badaga employ them when the Evil Eye has lighted on any of their number or the devil possesses one. By repeated 'mantrams' the poor Kurumba does his best to satisfy his employers, but should he fail, as often happens, and suspicion that he is merely 'playing with the devil' be aroused, then the lot of the exorcist is a sorry one indeed. The wrath of the family, it may be of the village and even of the whole tribe, is hurled against him. His miserable hut may be surrounded by night and he and his family murdered. It is on record that in one year fifty-

eight Kurumbas were thuswise done to death. In 1891 five inmates of a Kurumba hut were burned alive for bewitching, it is said, a Badaga child. Their supposed gift of healing is, therefore, not a very enviable possession.

In all the Kurumbas are not more than a thousand in number. The majority never leave the jungle, but unfortunately the baneful effect of arrack-drinking has made its way among the more 'civilized' who venture to the shandys or markets of the hill stations.

There is nothing the Kurumba fears more than small-pox. When one is attacked by this malady he is immediately segregated and large branches of thorn placed around the hut to prevent the 'pox-devil' from coming out and injuring anyone else.

A Kurumba will journey long distances to dig out a porcupine, for whose flesh they have a strange liking.

In spite of the efforts of both Catholic and Protestant missionaries, Christianity has, so far, made but little progress among these hill tribes. There are no Toda Christians, and the few families of Kurumbas converted a few years ago by one of the Fathers of the Coimbatore mission have all gone back to their ancient superstitions. The prospect among the Badagas is better, and the few score Catholics are a child-like lot who endeavour, much against the grain, to observe only such of their customs as offend neither against faith nor morality.

T. F. MACNAMARA.

## THE 'CATHOLICISM' OF ST. AUGUSTIN

CATHOLIC journalists have lately been busy administering strong and well-merited doses of criticism to the new edition of the *Encyclopedia Britannica*. They have shown, with evidence, that the seductive promises which heralded its publication were to a large extent illusory. The general truth, which is illustrated by their criticisms, is that the learned are no more exempt from prejudice than the illiterate; that scholarship has its foibles as eccentric and ridiculous as those of ignorance. 'I feel,' remarks Mgr. Duchesne, in his Preface to his *History of Early Christianity*, 'an equal horror of the stupidity of certain systems and of that of certain legends. I believe if I had to make a choice the legends would have my preference, for there we find, at any rate, something of poetry and popular feeling.'<sup>1</sup> Learning travels but lamely unless it has as its companions sanity and judgment, and a sure sense of proportion. This moralizing was provoked by the discovery of another instance, similar to that of the new Encyclopedia. Attractive professions, which raise great expectations only to disappoint them; scholarship distorted by its own proper delusions; these have made what might have been a most useful work of reference a snare to the unwary, a deception to all who put their trust in prefaces.

Dr. Wace and Dr. William Smith edited the well-known *Dictionary of Christian Biography*, in four volumes, some twenty years ago. Dr. Smith having died, his fellow-editor has collaborated with the Rev. William Piercey, to produce a compendious and modified form of the same work

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<sup>1</sup> Here is almost the same idea, expressed more vividly: 'Critics are much madder than poets. Homer is complete and calm enough; it is his critics who tear him into extravagant tatters. Shakespeare is quite himself; it is only some of his critics who have discovered he was somebody else. And though St. John the Evangelist saw many strange monsters in his vision, he saw no creature so wild as one of his own commentators.'—Chesterton, *Orthodoxy*, p. 27.



in one volume.<sup>1</sup> In the Preface they write: 'It may be permissible . . . to express a deep satisfaction at the increasing co-operation in friendly learning of Protestant and Roman Catholic scholars, and to indulge the hope that it is an earnest of the gradual growth of a better understanding between those two great schools of thought and life.'

I purpose, in this article, to show in detail how sadly the contribution on St. Augustin will disappoint Catholics who 'indulge hopes' similar to those expressed in the Preface. But before passing on to this, it is only just to show that the ill-treatment of St. Augustin's theology is by no means an isolated example of the Protestant bias which abounds in the work. Had the book been issued as a candid piece of Protestantism one would expect to see all that one actually finds; but surprises are certainly in store for those who have been persuaded by the Preface to look for the peaceable, or at least 'objective,' treatment of debatable questions. Why, for instance, does Dean Fremantle put St. Jerome wholly in the wrong in that hot dispute with Vigilantius<sup>2</sup>; why does he 'presume,' and—slightly changing the formula—'assume' that violence was only on the side of St. Jerome? The Dean has never seen the writings of Vigilantius, even in his dreams; how has he arrived at so complimentary an estimate of the courtesy of that ancient Protestant? It was, again, quite sufficient for doctrinal purposes had Dr. Cazenove ended his article on Vincent of Lerins with the dictum that Vincent's great principle 'derives considerable support from certain portions of the Prayer-book, Articles, and Canons.' He need not have added this offensive rigmarole:—

It is, of course, equally true that Roman Catholic divines, especially at the epoch of the Reformation and long after, also professed to take their stand upon the principles asserted in the Commonitorium. There is no reason to doubt their sincerity in so acting. They were not in a position to judge the evidence on behalf of this or that portion of medieval doctrine

<sup>1</sup> *A Dictionary of Christian Biography and Literature*. London: John Murray. 1911.

<sup>2</sup> Articles 'Vigilantius' and 'Hieronymus.'

and practice, and they appealed, with confidence, to such stores of learning as lay open to them. A day came when this confidence was rudely shaken. The Benedictine editions of the works of the Fathers appeared, with honest and discriminating criticism applied to their writings. Not only was it seen that a considerable portion of their works, long accepted as genuine and authentic, was in reality spurious, but also that while distinctively Roman tenets and practices received much support from the sermons and treatises relegated into the appendix of each volume, the case was widely different when reference was made to genuine Patristic remains. . . . The Church which set forth the doctrine of the Immaculate Conception of the Virgin Mother, not merely as a lawful opinion, but as a dogma, has broken with the maxim: 'Quod semper, quod ubique, quod ab omnibus.'<sup>1</sup>

This may all be very illuminating and very useful for the purposes of anti-Roman lecturers, but what of the waste of valuable space in so compressed a work? And, above all, where is that impartiality so piously commended in the Preface? We know that the cynicism in the Preface was unconscious, but that does not wholly reconcile us to it; and we like the sentence we have quoted from it less than any other which we have read in the *Dictionary of Christian Biography and Literature*. Perhaps we have used too much space on this matter, still it seemed to us one which called for some comment. Gladly we pass on to a more congenial subject. One of the articles in the *Dictionary* has opened up a question which has a great intrinsic interest to Catholic theologians. This is the one on St. Augustin of Hippo, contributed by the Right Rev. Dr. Robertson, Bishop of Exeter. The biographical sections are informing, but the theological positions attributed to the great Doctor are nothing short of astounding. It is merely one section of St. Augustin's theology which is to be treated here; and the method we wish to apply is the simple one of placing the Anglican Bishop's interpretation in face of the clear statements of the Bishop of Hippo.

A few citations will be necessary and sufficient to

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<sup>1</sup> Article 'Vincentius.'

exemplify both the method of the Bishop of Exeter and his conception of St. Augustin's Catholicity. Both one and the other are far from satisfactory—the method is too subjective, and the rendering of St. Augustin's thought is, we believe, quite inaccurate. The following quotations give a fair account of the Bishop's interpretation of his subject:—

Augustin was not the first to formulate belief in the Holy Catholic Church; but no one before him had reflected so deeply or expressed himself with such inimitable tenderness and devotion on the Church as the nurse and home of the Christian life, and the saving virtue of her means of grace. The Church to him is the society of the saints, the Kingdom of God on earth. With the whole drift of contemporary churchmanship, asceticism, miracles, relics, the incipient cultus of saints . . . he is in entire sympathy. It is unnecessary to multiply examples of what every page of his writings abundantly illustrates. But it must be noted that his interest throughout is in the spiritual life rather than in the external system; the latter is but the means to the former. Augustin, first of all extant Christian writers, identifies the Kingdom of God (so far as it exists on earth; its full realization, in common with all Christian antiquity, he reserves to the end) with the Catholic Church; but not in respect of its government and organization. It is the Kingdom of Christ in so far as Christ reigns in His saints and they (even on earth in a sense) reign with Him.<sup>1</sup> . . .

He subordinates the *institutional* to the *spiritual* conception of the Church. The Donatists are wrong because they have broken the bond of *caritas* which unites the Catholic society. It is this, and not the mere fact, necessary though it be, of the episcopal succession, that unites Catholics with the Apostolic churches, and through them by an 'inconcussa series' with the Apostles themselves.<sup>2</sup> . . .

To the authority of the Church he surrendered himself with passionate affection. 'I should not believe the Gospel,' he wrote in the early days of his episcopate, 'did not the authority of the Catholic Church compel me' (c. Ep. Fund. 6 in A.D. 397). But this was the *immanent* authority which the Church by her life, creed, and worship exercised upon his soul, rather than her official decisions. These, again, he accepted with all his heart.

<sup>1</sup> Section 16b.

<sup>2</sup> Section 8c (towards the end).



But what was the ultimate organ of the Church's authority? Where was its centre? What was the final standard of appeal? To these questions it is hard to obtain from Augustin a definite answer. Augustin was not an ecclesiastical statesman. His interest was above all in personal religion, and *therefore*, in a secondary degree, in doctrine and discipline. Although he takes for granted the Cyprianic view of the episcopal office, he does not insist on it with special emphasis; he emphasizes, on the other hand, in a marked manner the universal priesthood of Christians.<sup>1</sup>

What we dislike in these passages, which are characteristic of the theological sections of the article, is the method of placing side by side what seem to be antithetical, or even contradictory, views of St. Augustin. This can have no other effect on a reader save that of perplexing him, and setting him wondering what, after all, St. Augustin really thought and felt about the Church. Was his view that of a Protestant or that of a Catholic, or a 'tertium quid' between one and the other? We are told that he accepted the hierarchy, the doctrine, the discipline of the actual Church of his day, *but* that he held all these to be merely of secondary importance. He was passionately attached to the Church, *but* the Church was to him something mystical and transcendental.

Again, he was at one with St. Cyprian in his view of the episcopal office, *but* he emphasized the universal priesthood, so dear to the Protestant heart. These contrasts puzzle us. One can hardly help asking whether St. Augustin's mind was in a fog, or whether it is that the Bishop sees him through a mist. Surely the best way to render the Father's thought intelligible to the readers of the *Dictionary* would have been to state plainly the sense in which St. Augustin understood the 'transcendental' Church, and then, equally distinctly, to give his conception of the hierarchical or 'institutional' Church. One would then be in a position to reconcile the two conceptions, if reconciliation were possible.

Instead of this, it would appear that the author of the

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<sup>1</sup> Section 12.

article is nervous lest the undoubtedly Catholic conception, which appears in almost every page of St. Augustin, should be taken too literally, and without the necessary restrictions and qualifications. How far all sense of proportion can be lost by this kind of exposition may be shown by examining the passage in the last citation given—the one which purports to give St. Augustin's view of the priesthood. He does not insist, we are told, on the Cyprianic conception, though he takes it for granted; but he does emphasize the universal priesthood of all Christians. Turning from his interpreter to the works of the Saint himself, it is difficult to find any emphatic statement of the universal priesthood. We do not believe that more than one passage could be quoted that would give any colour whatever to the statement that St. Augustin laid any emphasis on this universal priesthood. Even there he mentions it in no way detrimentally to the received doctrine of the different status of the priesthood and the laity. From other passages it is plain that St. Augustin held the priesthood to be of divine institution; he states that the sacrament of Orders, like that of Baptism, gives an indelible character and confers the power of performing special offices in the Church, such as are not in the power of the laity; in a word, he uses language which would be quite inconsistent in the mouth of any clear-headed believer in a universal priesthood as Protestants understand it.<sup>1</sup>

The passage which would be adduced in favour of the Protestant theory is one in the *De Civitate Dei* (lib. xx. cap. 10). There is no emphasis in it, and taken in the context it explains itself. Here St. Augustin applies the words of the Apocalypse: 'They shall be priests of God and of Christ' to all the faithful; 'sicut omnes Christianos dicimus

<sup>1</sup> He writes of Baptism and Ordination: 'Utrumque sacramentum est et quadam consecratione utrumque homini datur: illud cum baptizatur, illud cum ordinatur: ideoque in Catholica utrumque non licet iterari' ('Contra Epist. Parmeniani,' liv. ii. cap. 13). Again, sin does not efface the character of ordination; a priest may be suspended from his functions but 'sacramento Domini semel imposito non carebit, quamvis ad iudicium permanente' ('De bono conjugii,' cap. xxiv. n. 32). It is exclusively the office of the Sacerdos to offer the Holy Sacrifice 'Nos offerimus sacrificium vobis non licet' (Serm. cxxxvii.).

propter mysticum chrisma, sic omnes sacerdotes, quoniam membra sunt unius sacerdotis. De quibus apostolus Petrus 'Plebs' inquit 'sancta, regale sacerdotium.' This is the usual interpretation of the texts given by Catholic theologians, and in no sense militates against the distinction between clergy and laity in the Church. St. Augustin, in fact, indicates this distinction in the context of the very passage when he speaks of Bishops and presbyters 'qui *proprie* jam vocantur in Ecclesia sacerdotes.' It is surprising how much the Bishop of Exeter has made of this sentence, and more so still when one notices how little he is able to make of others that are much more emphatic in a contrary sense. This is the usual kind of misconception which attends on subjective and interpretative treatment, and if the Bishop has failed to faithfully represent the mind of St. Augustin, it is partly owing to the fault of the system he has adopted.<sup>1</sup>

The problem that the Bishop has raised is briefly this: What did St. Augustin think of what is now called institutional religion? We will go to his works and get his opinion at first hand. There is ample material in his volumes, for he lived at a time and in a place which forced this question on a Bishop's attention.<sup>2</sup> In those long treatises of his, those letters, and conferences, and polemical pamphlets, we are able to trace his conception of Catholic Christianity. We do not find the dry orderliness of a theological manual, working forward from definitions and axioms, and proving each position step by step; we have rather the sentiments of a great Christian possessed by a passionate love and zeal for his Church, reasoning, speculating, persuading. Now his religion is seen by him under one aspect, now under another,

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<sup>1</sup> That the matter is capable of objective handling will be evident to anyone who has glanced through the two chapters given to the same subject in the second volume of Tixeront's *Histoire des Dogmes*. Cf. T. ii. *De Saint Athénase à Saint Augustin*, Lecoffre; 1909.

<sup>2</sup> The efforts displayed in this task, as witnessed by his writings, ought to be a sufficient proof of his earnestness about 'visible unity' in creed and discipline. A man of vague and broad Catholicism would scarcely have made himself so active about what he would regard as a merely secondary matter.



but throughout we feel that his vision is one and coherent, as it is vast and multiple in its details and its far-reaching implications.

The Redemption, the scheme of grace, is the pivot of his theology—grace, centring in Christ and filling all history, enclosing in its broad sweep both the ancient and the newer covenant. This is the 'Kingdom of God,' the 'Communion of Saints.' All whom the grace of God has ever sought or owned go to make up this kingdom. Not only Catholic Christians in visible union with the Church, but the saints of the Old Testament, who saluted the promises from afar; and such heretics and schismatics are divided from the visible Church not spiritually, but by mere bodily separation. This Kingdom of Grace he frequently calls by the name of the Catholic Church.<sup>1</sup> 'The Church,' then, in the language of St. Augustin, is sometimes equivalent to the 'Communion of Saints.' This is not an uncommon use of the term, though it is not its ordinary acceptation; and it is the context which alone is able to indicate the sense that is to be attached to the word Church, when it is met in St. Augustin, or any other writer. From the Church understood in this fashion St. Augustin naturally holds sinners (especially if God foresees that they will persevere and die in their sin) to be excluded. The wicked, to whatever communion they belong, have not the Kingdom of God dwelling in them. They may be regarded as Catholics, they may boast of their attachment to the true Church of Christ. Neither hypocrisy which feigns orthodoxy, nor genuine belief, if it is at variance with conduct, is able to gain true communion with

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<sup>1</sup> *Ecclesiam autem accipite, fratres, non in solis qui post Domini adventum et nativitatem esse coeperunt sancti; sed omnes quotquot fuerunt sancti ad ipsam Ecclesiam pertinent* (Sermo iv. 'de Jacob et Esau'). The virtues of the Fathers of the Old Testament prefigured the faith of the Church. 'Ita eum credentes venturum esse, sicut nos venisse' ('De catechizandis rudibus,' cap. 3). Cf. also, *idem*. cap. 19. Speaking of those outside the Visible Unity of the Church: 'Namque in illa ineffabili praesentia Dei, multi qui foris videntur intus sunt, et multi qui intus videntur foris sunt. Ex illis ergo omnibus qui, ut ita dicam intrinsecus et in occulto intus sunt, constat ille hortus conclusus, fons signatus, puteus aquae vivae, paradus cum fructu pomorum' ('De Bapt. contra Donatistas,' v. cap. 27).

the Catholic Church thus regarded.<sup>1</sup> Such is the Church in its widest sense—it is nothing less than the whole plan of salvation, as the divine foreknowledge comprehends it, working itself out in this world, and reaching its perfection in heaven.<sup>2</sup>

If this were St. Augustin's complete conception of the Church, it would be liable to be interpreted as foreshadowing the Protestant theory of a Church, consisting of the predestinate alone, a Church having only an invisible unity, the interior virtues which in God's sight distinguish His elect from the rest of mankind. But this is by no means the complete Augustinian theory. The doctor of Hippo very frequently applies the name 'Catholic Church' to the body of Christians which holds together in the unity of the episcopate, of doctrine and discipline. Is membership in this organized society necessary in his eyes, and to what degree? Without, for the present, adverting to its consistency or inconsistency with his description of the Church of the Saints we have just been considering, let us pass on to his view of the Catholic Church in this second and more ordinary sense.

It is distinguished by characteristics which, in St. Augustin's opinion, stand out plainly and meet the eye—the consensus of peoples and nations, its glorious history guaranteed by the authority of miracles and the splendour of virtues, a history opening with the commission of Peter to feed the whole flock of Christ and continuing as a visible and tangible unity by means of the apostolic succession. An argument for its authenticity can be found in the very name of Catholic in the common parlance of men.<sup>3</sup>

<sup>1</sup> Of the wicked he writes: 'Sive sint in area, sive sint foris palea sunt' (Sermo cclii., 'in diebus Pasch'); and of hypocrites: 'Sed nec ille dicendus est in Ecclesia et ad ipsam societatem spiritus pertinere qui ovibus Christi corporali tantum commixtione ficto corde miscetur' (Sermo lxxi., 'de verbis Matthæi Evangelii,' xii). Cf. also 'de Genesi ad litteram,' xi.

<sup>2</sup> 'Ex parte peregrina, ex magna parte immanens in coele' (in Psalm cxlix).

<sup>3</sup> 'Tenet (scil. in gremio Ecclesiae catholicae) consensio populorum atque gentium: tenet auctoritas miraculis inchoata, spe nutrita, caritate aucta, vetustate firmata: tenet ab ipsa sede Petri apostoli, cui pascendas oves suas post resurrectionem suam Dominus commendavit usque ad

Heretics in abandoning this unity of faith show that they do not love God; schismatics in rending it prove that they do not love their neighbour.<sup>1</sup> But is there any grave obligation on the part of heretics and schismatics to leave their sect and enter the Catholic Church? Can they content themselves by living as 'good men who are to be found in any creed'? May they not argue that they are faithful members of the Invisible Church, the Kingdom of God, and, this being so, why make any great case of visible communion? St. Augustin's answer to this line of questioning admits of no ambiguity. It is constantly to be met, especially in his arguments against the Donatist schismatics. Though there are cases, he urges, in which men are saved without visible rites—as Cornelius received the Holy Spirit before he was baptized—yet, he 'who despises the visible sacraments shall in no way be sanctified.'<sup>2</sup> Normally visible communion with the Catholic Church is necessary for salvation; for he who sins against unity sins against the Holy Spirit. It is vain for such a one to repent of his vices, for his heresy is sufficient for his condemnation.<sup>3</sup> Vain also is baptism, even though it be valid, when received outside the true Church; even martyrdom is without profit to the heretic.<sup>4</sup> Nowhere, perhaps, is the necessity of visible communion with the Church more strongly urged than in the sermon delivered by St. Augustin to the people of Cæsarea (in Mauritania). The Donatists have claimed for

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*praesentem episcopatum successio sacerdotum: tenet postremo ipsum Catholicae nomen, quod non sine causa inter tam multas haereses sic ista Ecclesia sola obtinuit. . . .* These are the 'carissima vincula' that bind a Catholic to his Church ('Contra Epistolam Manichœi,' cap. iv.)

<sup>1</sup> 'Quapropter nec haeretici pertinent ad ecclesiam catholicam quae diligit Deum, nec schismatici quoniam diligit proximum' ('De Fide et Symbolo').

<sup>2</sup> 'Proinde colligitur invisibilem sanctificationem quibusdam affuisse atque profuisse sine visibilibus sacramentis . . . nec tamen ideo sacramentum visibile contemnendum est; nam contemptor ejus invisibiliter sanctificari nullo modo potest' (Quaest. in Hept. lib. iii. q. 84). Cf. 'Contra Epist. Parmeniani, lib. ii. c. 15).

<sup>3</sup> 'Denique si quemquam extra Ecclesiam suorum poenitaeat peccatorum, et hujus tanti peccati quo alienus est ab Ecclesia Dei cor impenitens habeat quid ei prodest illa poenitentia; cum isto solo verbum dicat contra Spiritum Sanctum . . .' (Sermo lxxi., 'de verbis Matt. Evang.').

<sup>4</sup> 'De Baptismo,' iv. 24, Sermo cclxviii. 2.



themselves a true baptism, true faith in Christ, a true episcopal succession apart from the Catholic Church. The preacher sweeps all this aside. 'Everything,' he cries, 'can be got outside the Catholic Church, dignities, sacraments, yes, everything except salvation. "Alleluia" may be sung, and "Amen" answered, the Gospel may be kept and faith in the Trinity preached, but nowhere, save in the Catholic Church, may salvation be found.'<sup>1</sup> With the Catholic Church, then, is the promise of sanctification and salvation. But it does not follow that there are no sinners in the Church. He sorrowfully admits that there are grave scandals and much evil among professing Catholics. The Church is the House of God, but on earth it is not altogether beautiful.<sup>2</sup> It is necessary to the success of its mission to keep within it many evil members, until the final day of the separation of the good from the bad.<sup>3</sup> The glorification of the Church will be full and complete only in heaven when the evil shall have been cast out.<sup>4</sup> Meanwhile the struggle rages, the ship faces the storm of trial; it is for the devout to join themselves to those who are devout. The evil that exists in the Church will not be imputed to the sound members, nor is there any reason to abandon the graces given by Christ through the ministry of the Church because of the scandals that exist in spite of it.<sup>5</sup> Nay, more, it may

<sup>1</sup> 'Extra Ecclesiam Catholicam totum potest praeter salutem; potest habere honorem, sacramentum, potest cantare Halleluia, potest respondere Amen, potest Evangelium tenere, potest in nomine Patris et Filii et Spiritus Sancti fidem habere et praedicare; sed nusquam nisi in Ecclesia catholica salutem poterit invenire' (Sermo 'ad populum Caesareensem, Emerito praesente'). Cf. Ep. cxli, 'Concil Certense ad Donat.'

<sup>2</sup> 'Domus Dei Ecclesia est; adhuc habet malos; sed decor domus Dei in bonis est, in sanctis est, ipsum decorem domus tuae delexi' ('Ennar' in Psalm xxv.).

<sup>3</sup> 'Corporalem autem separationem in littore maris hoc est in fine saeculi expectat, corrigens quos potest, tolerans quos corrigere non potest; non tamen propter eorum quos non corrigit iniquitatem ipse bonorum deserit unitatem' (Ep. xciii. 'ad Vincentium').

<sup>4</sup> 'Ecce manifestum est quod dicebatur a nobis, distinguenda esse tempora Ecclesiae . . . nunc malos habere permixtos tunc omnino non habiturum' ('Ad Donat post Collationem,' n. 11).

<sup>5</sup> 'Interea navis portans discipulos—id est, Ecclesia—fluctuat et quatitur tempestatibus tentationum, et non quiescit ventus contrarius, id est, adversans sibi diabolus et impedire nititur ne perveniat ad quietem . . . Etsi turbatur navis, navis est tamen. Sola portat discipulos et recipit

be argued that even the wicked are better off in remaining in the Church (in spite of their increased responsibilities), for the chances of repentance are more favourable there than elsewhere.<sup>1</sup>

In St. Augustin's teaching, then, the Kingdom of Heaven is described under two main aspects: that of the redeemed race, and that of the visible Church. Sometimes a passage has such plain reference to one or other aspect that it is easy to assign it; sometimes the Saint allows the two conceptions to interpenetrate. But it is quite certain, if words have any meaning at all with him, that he never wishes to exalt the Church of the holy at the expense of the 'corpus permixtum,' the concrete and organized Church on earth. It is true that the Church of the just is an attractive theme with him, still his powers of persuasion are exerted for the benefit of 'institutional religion.' It has been argued that St. Augustin is here at open contradiction with himself. It seems rather that being one of those whose speech and writing are directed to certain practical ends, he has, according to occasion, developed his subject now from one point of view now from another. When one reads his passionate appeals for unity, his denunciations of schism, those passages, again, in which the privileges of the Church are extolled, side by side with a frank admission of the faults and sins of her members, it is hard to imagine that he could possibly have looked upon visible communion with the concrete Catholic Church as of secondary moment. The boat may be tossed about and rudely shaken, 'navis est tamen, sine illa statim peritur.'

While God has not actually bound His hands in instituting the Church He has, nevertheless, appointed it,

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Christum. Periclitatur quidem in mari: sed sine illa, statim peritur. Tene te itaque in navi et roga Deum' (Sermo lxxv., 'de Verbis Evang. Matthaei' 14).

'Quisquis autem in Ecclesia bene vixerit nihil ei praejudicant aliena peccata, quia unusquisque in ea proprium onus portabit sicut Apostolus dicit' ('Concil. Certensis ad Donat,' cxli). Cf. 'Breviculus Collationis,' cap. vii.

<sup>1</sup> 'Quidquid adhuc haeret corpori non desperatae sanctatis est; quod autem praecisum fuerit nec curare nec sanari potest' (Sermo cxxxvi. 'in verbis Evang. Joannis,' 10).

according to St. Augustin, to be the ordinary, normal, and necessary guide to salvation. In relation to the Kingdom of God (i.e., the Church in its broadest sense : body and soul, heavenly and earthly), the constituted Church on earth fulfils necessary functions—it is set up as a visible teacher and guide to mankind, and thus becomes the kingdom of God in its exterior and social aspect ; it brings about by means of its doctrine and sacraments the invisible reign of God in men's souls ; and, finally, it prepares its subjects for the consummation of the kingdom in the world to come.

There are many more points of the Bishop's article which Catholics may justly criticize. We cannot admit, for instance, that St. Augustin recognized no infallible organ of doctrinal authority in the Catholic Church, nor could we accept his version of St. Augustin's views on schism, on General Councils, on the Primacy of the Bishop of Rome. To go into these matters would involve an inordinately lengthy article, and besides, they have been frequently treated elsewhere. Our object is fulfilled now that we have called the attention of our readers to the misleading promises of a certain Preface, and gathered together for their use some few passages of St. Augustin on the Visibility of the Church.

W. B. O'DOWD.



## THE PHILOSOPHY OF ACTION APPLIED TO EDUCATION

**I**T is common for educators to view with complacency the study of mental science, as though—through our present system—thinking or ability to think were everyday achievements; that the examinations held were a test or assurance of the possession of such ability; or that even our methods of education were likely to induce or stimulate thought, when every practical person knows the contrary to be true. The only healthy sign in things educational is the prevailing dissatisfaction with present methods.

This unrest reveals itself from time to time in educational administration by change of programme, as if a change of subject were conducive to, or provocative of, thought, where the contrary holds; any subject proves equally suitable where there is ability to think. Our systems fail, not for want of suitable subjects upon which to use brain power, but because brain power is undeveloped. The power to think precedes the subject to be thought upon. The power to think depends largely upon the activity of the senses, which includes the cultivation of the whole man; the basis of this is to be found in a Philosophy of Action, or Self-development.

To conceive, and to express thought have been generally considered by educators as two separate acts; or, at least, so remotely connected that it has been concluded possible to possess the faculty of thinking without the faculty of expressing; and credit has accordingly been given for thought where there was no action or outward manifestation. There are others, again, who see a connexion between these two acts, but who consider the power of making manifest what is in the mind a gift which no training could evolve; or they contend that if thought naturally arises in the mind, it will find natural expression, and therefore training is unnecessary.

If there be any force in the employment of the word 'natural' regarding the study of expression, it equally applies to the study of mental science, and the logical outcome of the statement would be to discard the study of both. But if the term 'natural' is used to imply spontaneous action of the mind irrespective of the will it has no application ; for education cannot contemplate as probable the repetition at a desired moment of this impromptu display. Its duty is to develop the faculties of the mind that any phase of thought can be summoned, expressed, or dismissed at will. This implies culture of will power.

If the faculties of the mind can and are to be cultured, so also should the means of their expression, by which alone can the power of thinking be tested or assured.

The study of mental science—apart from expression—has evolved mere theorists ; men of action, never. This partial development, treating men as intellects merely, has signally failed. Unpractical suggestions, unprofitable debates, unphilosophical conclusions have resulted. That which should crown education—character development, insight, observation, imagination, control, general culture, attributes all of which imply action—are conspicuous by their absence ; and the happy possessor of any of these qualities is looked upon as a *rara avis*. If the failures rather than the successes were recorded, our systems of education would have little to boast of. First, then, it may be doubted whether there is thought where its expression is found to be even a matter of difficulty. Much that is credited as thought is mere visual memory, which is little more than repetition of words.

When one really thinks, expression cannot be concealed. Thinking is mental action, as its expression is physical action. Thought cannot be bound in by the walls of the brain. For the reason that action clearly expresses thought it follows that it heightens thought ; thoughts most forcibly expressed are most clearly felt.

The truth of the foregoing statement will be especially apparent where thoughts are reverted to, or where books are the medium. Action is now no longer subject to

impulse, as when thought and its accompanying emotion impelled expression. In the lapse of time the mind has undergone a change; it has resumed its normal restfulness, or begun activities in another direction. It is felt that not only is it impossible to express the former thought with vividness, but impossible to realize that the words contained thought and feeling to induce the expression formerly experienced. It is not that the words have lost their force, but the writer, or speaker, his appreciation of the underlying thought, through cessation of suitable mental and physical activity. Here it is that the command of action aids in realizing former states of feeling. As formerly thought influenced action, so now action influences thought.

It should be observed that as thinking is a state of acting, thought is finished action. The difference is important. Where the mind evolves a theory, considering the pros and cons, there is analogy to minds engaged in discussion, each demanding, each supplying, something towards the solution of the matter. But the mind once satisfied ceases its activities. To realize or to express thought now becomes a matter of impossibility without the power of willing reaction. This power has been erroneously considered a gift impossible of cultivation. Reaction is at present a much more rare talent than spontaneous thinking, and, of course, implies the thinking faculty in the highest degree.

With regard to books, the difficulty of controlling and adjusting the mind is still greater. In the case of our own thoughts and feelings reverted to, we have at least the memory of these which help to give words some reality: with books we have no such help. And surely if our own words reverted to lose their force how great must be the difficulty of finding, through words alone, the action present in the author's mind when he penned the words! This consideration affords abundant proof of the necessity of constantly uniting the natural action—the outcome of certain states of mind—to that state of mind, as the language of its expression.



Unless sympathetic states unite minds mutual understanding is impossible. Sympathy alone is the key to unlock the secret knowledge of the other mind. 'Sympathy' is here used not in the sense of agreement with, but a seeking out merely, the writer's mental state and point of view. This is possible only to the sympathetic mind. To realize we must sympathize; to sympathize we must act in unison with. To induce the state of mind termed sympathetic, every channel by which thought is expressed must have been explored. To fancy it possible that former states of mind could be recalled so vividly as to revive our mental experiences, or still more to realize the mental experiences of others, without such investigation, is to proclaim absolute ignorance of the fundamental principle by which all power and all knowledge are gained.

It was, too, through momentary forgetfulness of this great principle that Carlyle was guilty of the statement: 'The modern University is a library of books.' These words have again and again been quoted unqualified, as if they contained a great truth, whereas investigation will show they contain error: error the more grievous because a great name gives it currency. Take any classic in literature which has been edited and annotated, and compare the work, say, of six editors, and there will be found fundamental differences so great as to prevent reconciliation. Consider, too, these are the works of erudite men who fail to agree as to the intention of an author! How, then, is it possible for the less instructed to determine? If decision is given in favour of these, the claims of higher education are set at naught; if in favour of the erudite, the question opens: Has a book a definite meaning? If the answer be affirmative, the further question arises: How is it to be got at? If negatively, then books convey merely what each individual mind may be capable of.

In this view books have no true value at all, and education has no claim in the matter of interpretation. If, however, a rational view be taken, that the author of a book had a design and a definite purpose, it is clear this purpose can be discovered only by one whose mind is in harmony with

the author's purpose—acting as his mind acted when the thoughts were being set down.

This acquired mental state is what has been earlier termed sympathetic. The sympathetic mind is facile, easily adapted to recall former states of thought and feeling ; to adapt itself to mental states of other minds whether engaged in interlocutory communication, or through the written or printed word. Such a mind only is ready to interpret ; it is analytical and imaginative ; it is also incisive and comprehensive. These qualities, though rare, are essential for critic, teacher, and those whose work is illuminative.

From the foregoing it will be surmised that the illuminative power would in time become common property. The force of the teacher's arguments, his way of imparting knowledge, would make easy the road to advanced studies in science and literature ; for their most rugged aspect would have been made smooth by the teacher's logical and philosophical methods.

Meanwhile, if knowledge, the attainment of truth, be the end of education, all that directly precludes this should be rigidly excluded. On this ground elaborate critical and annotated classics should be banned. First, for the reason that they bind pupil and teacher by a third opinion, while relieving them of the responsibility of thinking for themselves. Secondly, the selection is rarely made with the sole desire of ascertaining truth ; rather in view of the critic's literary style. Choice on this ground alone is demoralizing. Who will be bold enough to say that when brilliancy and facility are awarded the highest place, the love or desire of truth will not languish ? That this is so is evidenced in every academic debate when the same mistaken view invariably dominates. Many of the distinguished speakers, invited for the occasion, who express themselves delighted with the variety of opinions, in dealing, from their exalted and various places in the outside world, with their opponents, fail to show the leniency they advocated, and professed admiration for, presumably because they now feel called upon to defend the truth.

Is one view to be inculcated in the University and another for use in after life ? It is, to say the least of it, a dangerous precedent ; all the more so as those really affected are at the impressionable age. Can it be seriously doubted that much of the madness and folly and ineffectiveness in the world can be traced to this source ?

The true test of man's worth is what he can do ; and this fact is urging earnest thinkers to seek out a test by which thought and action can be harmonized. The solution lies in uniting psychology and physiology, the mind and its means of expression, by the method here advocated in outline.

M'HARDY FLINT.



## A LITANY OF OUR LADY FROM 'LEABHAR BREAC'

THIS beautiful Litany is taken from *Leabhar Breac*, *facsimile* [74] a7-b37. It is evidently the expression of a very tender devotion to our Blessed Lady. 'It is a glory of our early Church to have produced such a sweet invocation of the Mother of God; and . . . Pius IX., to attest how dear to him was this fine old Irish prayer, granted an Indulgence of one hundred days to all who shall duly recite it.'<sup>1</sup> Cardinal Moran agrees with O'Curry in assigning the Litany at least to the middle of the eighth century. It is not so easy to fix the date of these pieces. They were copied from older books, and the scribe in copying modernized some of the old forms. In its present form this Litany might belong to some period from the twelfth century to the fourteenth. It is printed as it is in the manuscript.

The translation is quite literal. A translation made by O'Curry, and which is wonderfully correct, is given by Cardinal Moran.<sup>2</sup> The invocations are very Scriptural, and most are familiar to those who read the Divine Office. There is also a resemblance to the Litany of Loretto.

Δ Μυρε μορ.	O Great Mary.
Δ Μυρε αρ μο ρονα μυριβ.	O Mary, Greatest of Marys.
Δ πο μορ na mban.	O Greatest of Women.
Δ Ρισαν na naingeal.	O Queen of Angels.
Δ Βαντισερνα ινω nime.	O Queen of Heaven.
Δ Βεν λαν γ φορταν ο πατh ιν ρριpta νοιβ.	O Woman, full and replete with the grace of the Holy Spirit.
Δ βενδαετα γ α πο βενδachtα	O Blessed and most Blessed.
Δ ματαρι na γλορι ρuthaine.	O Mother of Eternal Glory.
Δ ματαρι na heclari nemθα γ talmanθα.	O Mother of the Church of Heaven and of Earth.

<sup>1</sup> Cardinal Moran, *Essays on the Early Irish Church*, p. 225.

<sup>2</sup> *Op. cit.*, p. 224.

Δ μάταιρ na báide 7 ino loḡair	O Mother of sympathy and pardon.
Δ μάταιρ na pollrī por- orḡai [?]. <sup>1</sup>	O Mother of Golden brightness.
Δ onoir ino etheoir. <sup>2</sup>	O Honour of the Firmament.
Δ cōmartha na pethinche.	O Sign of Tranquillity.
Δ dorair nime.	O Door of Heaven.
Δ cōmpa órḡai.	O Golden Casket.
Δ lepa na báide 7 na trócaire.	O Couch of Sympathy and Mercy.
Δ tempail na diaḡachta.	O Temple of the Divinity.
Δ maire na nḡs.	O Beauty of Virgins.
Δ bantigerina na ciniur.	O Mistress of the Tribes.
Δ topair na lubḡort. <sup>3</sup>	O Fountain of the Gardens.
Δ ḡlanad na peccad.	O Cleansing of the Sins.
Δ nise na nanmanḡ.	O Purification of Souls.
Δ mátair na nḡilliuchta.	O Mother of the Orphans.
Δ chich na nḡiden.	O Breast of the Infants.
Δ cōmḡignad na truaḡ.	O Consolation of the Afflicted.
Δ réḡla in mara.	O Star of the Sea.
Δ chumal Dé.	O Handmaid of God.
Δ mátair Cḡrḡ.	O Mother of Christ.
Δ irnacrair <sup>4</sup> in cōimḡed.	O of the Lord.
Δ crutach imar cōlum. <sup>5</sup>	O Fair-shaped as a Dove.
Δ íochrair mar ércā. <sup>6</sup>	O Beautiful as the Moon.
Δ thoḡairde mar ḡrian. <sup>7</sup>	O Brilliant as the Sun.
Δ dícor aithirre Eua. <sup>8</sup>	O Banishment of Eve's disgrace.
Δ athnuiseḡ na bechaḡ.	O Renewing of Life.
Δ maire na mbanrcál.	O Ornament of Women.
Δ cheno na nḡs.	O Queen of Virgins.
Δ lubḡort forḡata. <sup>3</sup>	O Closed-up Garden.
Δ fīr thopur ḡlappaḡche. <sup>8</sup>	O pure-well sealed up.
Δ mátair Dé.	O Mother of God.
Δ óḡ íuthain.	O Perpetual Virgin.

<sup>1</sup> There is some sign after pororḡai which I do not understand.

<sup>2</sup> ethér borrowed from Greek.

<sup>3</sup> Vide Canticle of Canticles iv. 15.

<sup>4</sup> O'Curry renders this word by 'Resort.'

<sup>5</sup> *Columba formosissima* of the Hymn for Matins in Votive Office of the Immaculate Conception.

<sup>6</sup> Vide Canticle of Canticles vii.

<sup>7</sup> *Quod Heva tristis abstulit Tu reddidit almo germine.* Hymn for Lauds B. V. M.

<sup>8</sup> Vide Canticle of Canticles iv. 12.

Δ óς noem.	O Holy Virgin.
Δ óς tpebar.	O Prudent Virgin.
Δ óς rocharao.	O Beautiful Virgin.
Δ óς zenmnac.	O Pure Virgin.
Δ tempail Dé bí.	O Temple of the Living God.
Δ mʒ-fuioe in mʒ futhain.	O Throne of the Eternal King.
Δ fánctairi in rpirca nóib.	O Sanctuary of the Holy Ghost.
[Δ óς do reim lepe.	O Maiden of the Race of Jesse.
Δ chechar flebi leban.	O Cedar of Mount Leban.
Δ chupprcc flebi Sióin.	O Cypress of Mount Sion.] <sup>1</sup>
Δ rór corcaroai fepainn iacoir.	O Purple Rose of the Land of Jacob.
Δ blatnaigtech mar failm.	O Flower fair as Palm.
Δ toirtech mar ola chranó.	O Fruitful as the Olive Tree.
Δ mac bpecais glóroai.	O Glorious Son-bearer.
Δ foliri nacrairech.	O Brightness of Nazareth.
Δ glóir ierlem. <sup>2</sup>	O Glory of Jerusalem.
Δ mairi in domain.	O Ornament of the World.
Δ focenta in popail eiprtaige.	O Noblest-born of the Christian People.
Δ mʒan in becha.	O Queen of the World.
Δ apao <sup>3</sup> nime.	O Ladder of Heaven.
Eipt guioe na mbocht. Na	Hear the prayer of the poor.
uimicnig cneoa 7 opnaoai	Despise not the sighs and
na tpuas. Beirchar ar	groans of the wretched.
hóúthraet 7 ar noépaó	Let our prayers and our
tremutra i fiaonaire <sup>4</sup>	sighs be borne by you to
in dúileman, ar nit riu	the presence of the Creator,
rino péu ar nepteht tre	for we ourselves are not
nar noíocairilliu, a ban-	worthy to be heard on
tigerna cumachtach nime	account of our demerits.
7 calman.	O Powerful Queen of
	Heaven and of Earth.
Dileʒ ar cinto ar peoai.	Dissolve our crimes, our sins.
Scrir ar culu 7 ar corbaro.	Banish our evil deeds and our
	transgressions.
Tócaib na tuimeoa ina	Raise up the fallen, the weak.
nóiblen.	

<sup>1</sup> The three invocations in square brackets were added by the scribe in a footnote.

<sup>2</sup> *Tu Gloria Jerusalem.*

<sup>3</sup> Cf. *Eriu* iv., p. 329, n. 9.

<sup>4</sup> This is a phenomenon common in *Leabhar Breac*, viz., the use of the mark of lenition to denote nasalization.





There are two other Litanies on the same page; the second is not complete, breaking off in the middle of an invocation. It would be hard to find a more vivid and effective realization of the dignity and power of the Mother of God than these remnants of the tradition of the Irish Church. Perhaps in a succeeding number the other two may be printed.

Mac Eclair.

## Notes and Queries

### LITURGY

#### THE CONSTITUTION 'DIVINO AFFLATU' AND THE NEW RUBRICS OF THE BREVIARY AND MISSAL

AMONG the documents published in this issue of the I. E. RECORD will be found the Apostolic Constitution *Divino Afflatu*, together with the rubrics which define its provisions in detail. The Constitution bears in every line the impress of the personality of Pius X., his decision of character, his reverence for the past, his grasp of modern needs and conditions, his fertility in discovering means to realize ideals which were almost abandoned as impracticable. In weighty and eloquent words he reminds us of the position which the Psalms once held in the Liturgy of the Church, and of their innate power, derived from on high, to excite within us the grandest and noblest religious emotions. There was a time, he tells us, when the whole of these inspired compositions were recited by the clergy, secular and regular, within the space of a week; such was the practice sanctioned by Pontiffs, Councils, and monastic rules in the palmy days of the Liturgy of the Church. Such, too, was the practice aimed at by the great reformers of the Roman Breviary, Pius V., Clement VIII., and Urban VIII. Their ideals are preserved for us in the Psalter, but they have long since ceased to be anything more than ideals, for the cult of the saints has almost completely crushed out the grand old Office *de Tempore*. Liturgists have often deplored the fact. Pious and thoughtful men have pointed out the dulling and deadening effect of reading the same psalms day after day, while many of the most beautiful and suggestive of these compositions were scarcely ever brought before the clergy. The Office had in actual fact developed a sameness foreign to the original idea of the Church, and almost



fatal to the devotion and attention with which it should be recited.

For more than half a century the movement for reform has been growing. The question was before the Vatican Council, but the Council was interrupted before any decision could be arrived at. The question was in fact involved in two serious difficulties. However desirable it might be from many points of view to return to the old Roman Office there was one serious objection—it was too long. That Office was a glorious form of worship in its own time and place, in the great Roman basilicas, the cathedral chapters, or the monastic houses of the earlier centuries. But not in modern times alone, but ever since the recitation of the Office became obligatory, *extra chorum*, complaints were made of its length, and various devices discovered to shorten it. In modern conditions, as Pius X. fully recognized, a return to the earlier Office *de Tempore* would impose an almost intolerable burden on missionary priests. That Office is longest on Saturday and Sunday, just the days when priests have little time or energy to spare. Another difficulty was this. The saints' Offices have come to stay. Once, indeed, a liturgist, in his zeal for antiquity, did propose to sweep them aside altogether, but his proposition met with no encouragement. Here, then, was the problem—to restore the practice of reading the whole Psalter once a week, yet in such a way as not to render the Office inordinately long; and, secondly, to give due prominence to each of the elements of the Divine Office, the *Officium de Tempore* and the *Officium Sanctorum*. It was a problem which baffled Pius V. and his successors, for they left a way open to the re-introduction of the abuses which they intended to correct. But Pius X. has succeeded in solving it in a very simple and effective way. The principle of solution is not altogether new, for it was already employed, for example, in the case of simple feasts.

In the present reform the fundamental idea is to distinguish the Psalter from the rest of the Office. Moreover, a new distribution of the psalms is made over *all* the hours, and for the various days of the week. Brevity and uniformity

are secured by dividing the long psalms, so that in some cases one psalm of the Vulgate forms three for a nocturn of Matins. With few exceptions, the antiphons and psalms, in the case of feast Offices, are taken from the Psalter, as redistributed for the different canonical hours. The memory of the saints is preserved in the lessons of the second and third nocturns, in the hymns and prayers. Such, in brief, is the method adopted to give due prominence both to the Office of the saint and to the Office of the day. Another general feature which may be mentioned is that *every* Office in future, dominical, ferial, and feast Office, of whatever rite, will have nine psalms in Matins. In the case of an Office of nine lessons there are three psalms in each nocturn, with a versicle at the end of the third. In the case of ferial offices and simple feasts, the nine psalms with their antiphons are read without any interruption at the end of the third and sixth. The net result is that the Office of the future will be more varied, more suggestive, and generally shorter than those to which we have been accustomed.

The rubrics which are appended to the Constitution are divided into thirteen chapters. We shall endeavour to place before our readers their main outlines. We do not think it necessary to go minutely into those regulating concurrence, occurrence, and commemorations. Anyone interested in these details may consult the rubrics for himself. It will be enough to emphasize the fact that in future only doubles of the first and second class can be transferred; and when transferred they are to be replaced on the first day not occupied by a double of the first or second class, or by an Office which excludes such feasts. Of course, as formerly, if even a semi-double is *perpetually* excluded on its own day it has the right to *mutatio in diem fixam*. The convenience of these regulations is manifest.

#### A.—THE DIVINE OFFICE.

##### I.—*Officium de Tempore*.

1. *The Dominical Office*.—The outstanding features of the new dominical Office are the restoration of Sunday to the position of honour it once occupied in the liturgy and

the abbreviation of the psalms in Matins. Major Sundays of the first class yield to no Office whatever ; those of the second class only to feast Offices of the highest rite ; minor or ordinary Sundays throughout the year retain their Office, except in occurrence with *any* feast of our Lord and its octave day, or any other feast which is a double of the first or second class. When thus excluded the Sunday Office is always to be commemorated in Matins, Lauds, and *both* Vespers. The number of psalms is nine—in reality six of the Vulgate—so that the total number of verses to be recited has been reduced from 280 to 87 ! As in all other Offices the psalms in Lauds are strictly limited to four, with a canticle between the third and fourth. Thus the *Deus miseratur nostri*, the *Cantate Domino*, and the *Laudate Dominum* disappear from the dominical Office. The so-called Athanasian Creed in Prime is to be said only on the feast of the Trinity and on the Sundays after Epiphany and Pentecost ; and even on these days it is omitted if there is a commemoration in the Office of any double feast, an octave day, or a day within an octave. In the same circumstances the *Suffragium Sanctorum* (a single antiphon and verse with the prayer *A cunctis*) and the *Preces* are omitted. Compline on Sundays (as on all other days) has only three psalms. The Compline with which we are familiar is retained for Sunday, with the omission of the psalm *In te Domine*.

2. *The Ferial Office*.—The nine psalms in Matins are read continuously without the versicle at the end of the third and sixth. The psalms for all the hours vary for the different days of the week. In Lauds and Vespers the *Preces feriales* are read, in each case without the psalm.

## II.—*Officium Sanctorum*.

1. *Doubles and Semi-doubles*.—With the exceptions to be noted hereafter the Office of double or semi-double rite is said according to the following plan. In *Matins* the invitational and hymn are taken from the Office of the saint. The antiphons, psalms, versicle, and response for each of the three nocturns are taken from the feria occurring.



The lessons of the first nocturn are taken from the Scripture occurring; those of the second and third from the *Proprium* or *Commune Sanctorum*, as hitherto, as also are the *responsoria* for the three nocturns.

In *Lauds* and *Vespers* everything, as far as the Capitulum exclusive, is from the feria occurring; the rest from the Office of the saint.

In the *Small Hours* and *Compline* both antiphons and psalms are those of the feria. In *Prime* the Capitulum of None is used as usual to form the *Lectio brevis*, and is taken from the Office of the saints.

In *Terce*, *Sext*, and *None*, everything, from the Capitulum inclusive, is from the Proper or Common of Saints.

2. *Simple Feast Offices*.—The psalms in Matins are said according to the directions given for the ferial Office. The first and second lessons are from the Scripture occurring; the third is of the feast, and if two lessons are given in the proper they are combined and read as one. The *responsoria* for all three lessons are taken from the Common—if none are proper. The rest of the Office is said exactly as in the case of doubles or semi-doubles.

It may be stated here that the rules regarding the *Preces* in Prime, etc., and for the *Suffragia* remain unchanged; but, as already pointed out, there is only one Common *Suffragium* instead of those hitherto in use.

As the simple Office is now at least as short as any of the votive Offices per annum, the motive for the continuance of these Offices no longer exists, and they are consequently abolished.

### III.—*Exceptions*.

1. The following days or feasts retain their own Office: the Sundays within the octaves of the Nativity, Epiphany, Ascension, and Corpus Christi, and the Friday after the octave of the Ascension—when the Office of these days is recited; feasts of our Lord, of the Blessed Virgin, Angels, St. John Baptist, St. Joseph, SS. Peter and Paul, and all doubles of the first and second class; but in the case of these feasts the psalms for Lauds, the Hours, and Compline

are to be recited as in the *dominical* Office. In Matins and Vespers they are taken from the Common, if no proper psalms are assigned. If any of these feasts has an octave, the Office, whenever it is *de octava*, follows the same rule, of course, as on the feast itself. The Office of the Vigils of the Nativity and Pentecost are also excepted. During the last three days of Holy Week the Office is practically the same as in our present breviaries. However, the psalms for Lauds (except the canticle on Holy Saturday) are taken from the feria occurring, and in Compline, on each of the three days, the psalms are those of the *dominical* Office. Of course this will be noted in the new editions of the Breviary.

2. Feasts which have *proper* antiphons in Matins, Lauds, or Vespers retain these antiphons with the psalms indicated under them; in all other hours the antiphons and psalms are those of the feria.

3. Feasts which have *proper lessons* in the first nocturn retain them. If a feast has *proper responsoria* for the first nocturn with lessons from the Common, these lessons are still to be said, and not those from the Scripture occurring.

4. If a feast falls on a day for which no Scripture has been assigned, e.g., a feria in Lent, the lessons of the first nocturn are from the Common (if none are proper).

#### IV.—Some Special Offices.

1. The 2nd of November will have only one Office in future. This is the Office for the Dead, which has been completed, and which yields on this day only to a double of the first class, or a Sunday. If so impeded it is said on the following day which is free for that purpose, unless occupied by a double of the first class—a double of the second class would have to be transferred to make room for it on such a day.

2. The anniversary of the dedication of the cathedral of a diocese and the feast of its titular, as well as the feast of the principal patron of a place, are to be kept throughout the whole diocese (or place), as doubles of the first class with an octave, by all who follow the diocesan calendar; and by regulars who follow their own calendar as doubles of the first class, but without an octave.

3. The feast of the dedication of the Lateran Basilica and that of its titular, the Transfiguration, are to be universally celebrated as doubles of the second class.

#### B.—THE MASS.

1. An important modification is the following. On the *feriae* of Lent, Quarter Tense, the second *feria* of Rogation Days, and Vigils, if a semi-double feast occurs or even a double (which is not of the first or second class) a priest is free to say the Mass of the *feria* or of the feast, just as he pleases, with a commemoration of the other.<sup>1</sup> In case he selects the Mass of the feast the last Gospel will be that of the *feria*.

2. *Number of Prayers*.—The former rubrics have been modified in the following particulars:—

(a) When the Mass *de dominica* is said and there is a commemoration of a double feast the third prayer is omitted.

(b) In addition to the occasions formerly prescribed, the *Oratio imperata* (unless *pro re gravi*) is in future forbidden on doubles of the second class (in which it was optional when the Mass was not sung), on days within the privileged octaves, on Major Sundays, and whenever more than three prayers have to be said according to the general rubrics.

3. *Requiem Masses*.

(a) The rules for Masses which are *sung* have undergone no change.

(b) Masses which are said '*pro die obitus*' are forbidden only on holy days of obligation and doubles of the first and second class.

(c) The ordinary *Missa quotidiana* may be said on the days on which it was formerly allowed, except on a *feria* in which a Sunday Mass is anticipated or replaced, and the *feriae* mentioned (in par. 1). But in Lent the *Missa quotidiana* may still be said on the first day of the week which is free according to the old rubrics. However, in these

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<sup>1</sup> For the present year there is also a choice of Offices on these days when recited privately. The same is true of the Office and Mass of a Sunday occupied by any feast of double major or double minor rite, or by an octave day, except it be a feast or octave day of a feast of our Lord.



ferial Masses a prayer for the dead for whom the Mass is offered may be inserted in the second last place, and the indulgence of the privileged altar may be gained although the Mass is not said in black vestments.

4. Votive Masses may be said on the same day as the *Missa quotidiana Defunctorum*, except that the privilege regarding the first free day of the week in Lent is not granted in this case.

In conclusion, it is of importance to note that although these rules do not bind until the 1st of January next year, priests are perfectly free to adopt at once on *any* day they wish the new method of saying the Office. Of course the revised Psalter will be incorporated in all the future Breviaries; but meantime a typical edition of the Psalter, which may be used in conjunction with an ordinary Breviary, has been published by the Vatican Press, and other editions are now on the market.

#### A CORRECTION.

In the last issue of the I. E. RECORD the following question was quoted thus: 'An sacerdos in exequiis persolvendis missam celebrans, non recepto stipendio, debeat pro ipso defuncto, vel potius pro aliis petentibus et eleemosynam offerentibus sacrificium applicare *debeat*?' The second *debeat* should have been *queat*.

THOMAS O'DOHERTY.

## DOCUMENTS

## THE NEW PSALTER

ACTA SUMMI PONTIFICIS

CONSTITUTIO APOSTOLICA

DE NOVA PSALTERII IN BREVIARIO ROMANO DISPOSITIONE

PIUS EPISCOPUS

SERVUS SERVORUM DEI

*Ad perpetuam rei memoriam.*

DIVINO afflatu compositos Psalmos, quorum est in sacris litteris collectio, inde ab Ecclesiae exordiis non modo mirifice valuisse constat ad fovendam fidelium pietatem, qui offerebant *hostiam laudis semper Deo, id est, fructum labiorum confitentium nomini eius*<sup>1</sup>; verum etiam ex more iam in vetere Lege recepto in ipsa sacra Liturgia divinoque Officio conspicuam habuisse partem. Hinc illa, quam dicit Basilius, nata *Ecclesiae vox*,<sup>2</sup> atque psalmodia, eius *hymnodiae filia*, ut a decessore Nostro Urbano VIII. appellatur,<sup>3</sup> *quae canitur assidue ante sedem Dei et Agni*, quaeque homines, in primis divino cultui addictos docet, ex Athanasii sententia, *qua ratione Deum laudare oporteat quibusque verbis decenter confiteantur*.<sup>4</sup> Pulchre ad rem Augustinus: *Ut bene ab homine laudetur Deus, laudavit se ipse Deus; et quia dignatus est laudare se, ideo invenit homo, quemadmodum laudet eum*.<sup>5</sup>

Accedit quod in Psalmis mirabilis quaedam vis inest ad excitanda in animis omnium studia virtutum. Etsi enim *omnis nostra Scriptura, cum vetus tum nova, divinitus inspirata utilisque ad doctrinam est, ut scriptum habetur; . . . at Psalmorum liber, quasi paradisus omnium reliquorum (librorum fructus) in se continens, cantus edit, et proprio insuper cum ipsis inter psallendum exhibet*. Haec iterum Athanasius,<sup>6</sup> qui recte ibidem addit: *Mihi quidem videtur, psallenti Psalmos esse instar speculi, ut et seipsum et proprii animi motus in ipsis contempletur, atque ita affectus*

<sup>1</sup> Hebr. xlii. 15.<sup>2</sup> Homil. in Ps. i. n. 2.<sup>3</sup> Bulla *Divinam psalmodiam*.<sup>4</sup> Epist. ad Marcellinum in interpret. Psalmor. n. 10.<sup>5</sup> In Psalm cxliv. n. 1.<sup>6</sup> Epist. ad Marcell. cit. n. 2.

*eos recitet.*<sup>1</sup> Itaque Augustinus in confessionibus: *Quantum, inquit, flevi in hymnis et canticis tuis suave sonantis Ecclesiae tuae vocibus commotus acriter! Voces illae influebant auribus meis et eliquabatur veritas in cor meum et exaestuabat inde affectus pietatis et currebant lacrimae et bene mihi erat cum eis.*<sup>2</sup> Etenim, quem non moveant frequentes illi Psalmorum loci, in quibus de immensa maiestate Dei, de omnipotentia, de inenarrabili iustitia aut bonitate aut clementia de ceterisque infinitis laudibus eius tam alte praedicatur? Cui non similes sensus inspirent illae pro acceptis a Deo beneficiis gratiarum actiones, aut pro expectatis humiles fidentesque preces, aut illi de peccatis clamores poenitentis animae? Quem non admirationem psaltes perfundat, cum divinae benignitatis munera in populum Israël atque in omne hominum genus profecta narrat, cumque caelestis sapientiae dogmata tradit? Quem denique non amore inflammet adumbrata studiose imago Christi Redemptoris, cuius quidem Augustinus<sup>3</sup> *vocem in omnibus Psalmis vel psallentem, vel gementem, vel laetantem in spe, vel suspirantem in re* audiebat?

Iure igitur optimo provisum est antiquitus, et per decreta Romanorum Pontificum, et per canones Conciliorum, et per monasticas leges, ut homines ex utroque clero integrum Psalterium per singulas hebdomadas concinerent vel recitarent. Atque hanc quidem legem a patribus traditam decessores Nostri S. Pius V., Clemens VIII., Urbanus VIII. in recognoscendo Breviario Romano sancte servarunt. Unde etiam nunc Psalterium intra unius hebdomadae spatium recitandum foret integrum, nisi mutata rerum condicione talis recitatio frequenter impediretur.

[Etenim procedente tempore continenter crevit inter fideles eorum hominum numerus, quos Ecclesia, mortali vita defunctos, caelicolis accensere et populo christiano patronos et vivendi duces consuevit proponere. In ipsorum vero honorem Officia de Sanctis sensim propagari coeperent, unde fere factum est, ut de Dominicis diebus deque Feriis Officia silerent ideoque non pauci neglegerentur Psalmi, qui sunt tamen, non secus ac ceteri, ut Ambrosius ait<sup>4</sup> *benedictio populi Dei laus, plebis laudatio, plausus omnium, sermo universorum, vox Ecclesiae, fidei canora confessio, auctoritatis plena devotio, libertatis laetitia, clamor iucunditatis,*

<sup>1</sup> Epist. ad Marcell. cit. n. 12.

<sup>2</sup> Lib. ix. cap. 6.

<sup>3</sup> In Ps. xlii. n. 1.

<sup>4</sup> Enarrat. in Ps. i. n. 9.



*laetitiae resultatio.* De huiusmodi autem omissione non semel graves fuerunt prudentum piorumque virorum querimoniae, quod non modo hominibus sacri ordinis tot subtraherentur praesidia ad laudandum Dominum et ad intimos animi sensus ei significandos aptissima ; sed etiam quod optabilis illa in orando varietas desideraretur, ad digne, attente, devote precandum imbecillitati nostrae quam maxime opportuna. Nam, ut Basilius habet, *in aequalitate torpescit saepe, nescio quomodo, animus, atque praesens absens est : mutatis vero et variatis psalmodia et cantu per singulas horas, renovatur eius desiderium et attentio instauratur.*<sup>1</sup>

Minime igitur mirum, quod complures e diversis orbis partibus sacrorum Antistites sua in hanc rem vota ad Apostolicam Sedem detulerunt, maximeque in Concilio Vaticano, cum hoc inter cetera postularunt, ut, quoad posset, revocaretur consuetudo vetus recitandi per hebdomadam totum Psalterium, ita tamen ut clero, in sacri ministerii vinea ob imminutum operariorum numerum iam gravius laboranti, non maius imponeretur onus. Hisce vero postulationibus et votis, quae Nostra quoque ante susceptum Pontificatum fuerant, itemque precibus, quae deinceps ab aliis Venerabilibus Fratribus piisque viris admotae sunt, Nos equidem concedendum duximus, cauto tamen, ne recitatione integri Psalterii hebdomadae spatio conclusa, ex una parte quicquam de Sanctorum cultu decederet, neve ex altera molestius Divine Officii onus clericis, immo temperatius evaderet. Quapropter, implorato suppliciter *Patre luminum*, corrogatisque in id ipsum suffragiis sanctarum precum, Nos vestigiis insistentes decessorum Nostrorum, aliquot viros delegimus doctos et industrios, quibus commisimus, ut consiliis studiisque collatis certam aliquam reperirent rei efficiendae rationem, quae Nostris optatis responderet. Illi autem commissum sibi munus e sententia exsequentes novam Psalterii dispositionem elaborarunt ; quam cum S. R. E. Cardinales sacris ritibus cognoscendis praepositi diligenter consideratam probassent, Nos, utpote, cum mente Nostra admodum congruentem, ratam habuimus in rebus omnibus, id est, quod ad ordinem ac partitionem Psalmorum, ad Antiphonas, ad Versiculos, ad Hymnos attinet cum suis Rubricis et Regulis, eiusque editionem authenticam in Nostra typographia Vaticana adornari et indidem evulgari iussimus.

Quoniam vero Psalterii dispositio intimam quamdam habet cum omni Divino Officio et Liturgia coniunctionem, nemo non

<sup>1</sup> Regulae fusius tractatae, interrog. xxxvii. n. 5.

videt, per ea, quae hic a Nobis decreta sunt, primum Nos fecisse gradum ad Romani Breviarii et Missalis emendationem: sed super tali causa proprium mox Consilium seu Commissionem, ut aiunt, eruditorum constituemus. Interim, opportunitatem hanc nacti, nonnulla iam in praesenti instauranda censuimus, prout in apposis Rubricis praescribitur; atque imprimis quidem ut in recitando Divino Officio Lectionibus statutis sacrae Scriptura cum Responsoriis de tempore occurrentibus debitus honor frequentiore usu restitueretur; dein vero ut in sacra Liturgia Missae antiquissimae de Dominicis infra annum et de Feriis, praesertim quadragesimalibus, locum suum recuperarent.

Itaque, harum auctoritate litterarum, ante omnia Psalterii ordinem, qualis in Breviario Romano hodie est, abolemus eiusque usum, inde a Kalendis Ianuaris anni millesimi nongentesimi decimi tertii, omnino interdiciamus. Ex illo autem die in omnibus ecclesiis Cleri saecularis et regularis in monasteriis, ordinibus, congregationibus, institutisque religiosorum ab omnibus et singulis, qui ex officio aut ex consuetudine Horas canonicas iuxta Breviarum Romanum, a S. Pio V. editum et a Clemente VII., Urbano VIII., Leone XIII. recognitum, persolvunt, novum Psalterii ordinem, qualem Nos cum suis Regulis et Rubricis approbavimus typisque Vaticanis vulgandum decrevimus, religiose observari iubemus. Simul vero poenas in iure statutas iis denutiamus, qui suo officio persolvendi quotidie Horas canonicas defuerint; qui quidem sciant se tam gravi non satisfacturos officio, nisi Nostrum hunc Psalterii ordinem adhibeant.

Omnibus igitur Patriarchis, Archiepiscopis, Episcopis Abbatibus ceterisque ecclesiarum Praelatis, ne Cardinalibus quidem Archipresbyteris patriarchalium Urbis basilicarum exceptis, mandamus, ut in sua quisque dioecesi, ecclesia vel coenobio Psalterium cum Regulis et Rubricis, quemadmodum a Nobis dispositum est, constituto tempore inducendum curent: quod Psalterium quasque Regulas et Rubricas etiam a ceteris omnibus, quoscumque obligatio tenet recitandi vel concinendi Horas canonicas, inviolate adhiberi ac servari praecipimus. Interim autem cu libet et capitulis ipsis, modo id maior cap tuli pars sibi placere ostenderit, novum Psalterii ordinem, statim post eius editionem, rite usurpare licebit.

Haec vero edicimus, declaramus, sancimus, decernentes has Nostras litteras validas et efficaces semper esse ac fore; non obstantibus constitutionibus et ordinationibus apostolicis, generalibus et specialibus, ceterisque quibusvis in contrarium facien-

tibus. Nulli ergo hominum liceat hanc paginam Nostrae abolitionis revocationis, permissionis, iussionis, praecepti, statuti, indulti, mandati et voluntatis infringere, vel ei ausu temerario contraire. Si quis autem hoc attentare praesumpserit, indignationem omnipotentis Dei, ac beatorum Petri et Pauli, Apostolorum eius, se noverit incursurum.

Datum Romae apud S. Petrum anno Incarnationis Dominicae millesimo nongentesimo undecimo, Kalendis Novembribus, in festo Sanctorum omnium, Pontificatus Nostri anno nono.

A. CARD. AGLIARDI, S. R. E. *Cancellarius*.

FR. SEB. CARD. MARTINELLI, S. R. C. *Praefectus*.

VISA: M. RIGGI C. A., *Not.*

Loco ✠ Plumbi.

*Reg. in Canc. Ap. N. 571.*

#### RUBRICS OF DIVINE OFFICE AND MASS

RUBRICAE IN RECITATIONE DIVINI OFFICII ET IN MISSARUM CELEBRATIONE SERVANDAE AD NORMAM CONSTITUTIONIS APOSTOLICAE 'DIVINO AFFLATU.'

TITULUS I.—*De ratione Divini Officii recitandi iuxta novum Psalterii ordinem.*

1. In recitatione Divini Officii, iuxta Romanum Ritum, Psalmi quotidie sumendi sunt, ad singulas Horas canonicas, de occurrente hebdomadae die, prout distribuuntur in Psalterio noviter disposito; quod deinceps, loco veteris dispositionis, in novis Breviarii Romani editionibus vulgandum erit.

2. Excipiuntur tamen omnia Festa Domini eorumque integrae Octavae, Dominicae infra Octavas Nativitatis, Epiphaniae, Ascensionis et Corporis Domini, Vigilia Epiphaniae et FERIA VI. post Octavam Ascensionis, quando de eis persolvendum sit Officium; itemque Vigilia Nativitatis ad Laudes et ad reliquas Horas minores usque ad Nonam, et Vigilia Pentecostes; nec non omnia Festa Beatae Mariae Virginis, SS. Angelorum, S. Ioannis Baptistae, S. Ioseph et SS. Apostolorum et Duplicia I. et II. classis, eorumque omnium integrae Octavae, si de eis fiat Officium, quod recitandum erit prout assignatur, vel in Breviario, vel in Proprio Dioecesis vel Instituti, hac lege tamen ut Psalmi ad Laudes, Horas et Completorium semper sumendi sint ex Dominica, ut in novo Psalterio; ad Matutinum vero et ad



Vesperas dicantur ut in Communi, nisi speciales Psalmi sint assignati. Tribus autem ultimis diebus maioris hebdomadae, nil erit innovandum, sed Officium integre persolvendum erit, prout nunc habetur in Breviario, sumptis tamen ad Laudes Psalmis de FERIA currenti, ut in novo Psalterio, excepto Cantico Sabbati Sancti quod etiamnum est '*Ego dixi: In dimidio.*' Ad Completorium sumantur Psalmi de Dominica, uti in novo pariter Psalterio.

3. In quolibet alio Festo Duplici, etiam maiore, vel Semiduplici, vel Simplici, et in Feriis Tempore Paschali semper dicantur Psalmi, cum Antiphonis in omnibus Horis, et Versibus ad Matutinum, ut in Psalterio de occurrenti hebdomadae die; reliqua omnia, et Antiphonae ad *Magnificat* et *Benedictus*, ut in Proprio aut Communi. Quod si aliquod ex Festis huiusmodi proprias vel peculiariter assignatas habeat Antiphonas in aliqua Hora maiori, eas in eadem ipsa retineat cum suis Psalmis, prout habetur in Breviario: in ceteris Horis Psalmi et Antiphonae dicantur de FERIA occurrente.

4. Lectiones ad Matutinum in I. Nocturno semper legendae erunt de Scriptura occurrente, licet aliquando in Breviario Lectiones de Communi assignentur, nisi sit Festum Domini aut Festum cuiusvis ritus B. Mariae Virginis, vel Angelorum, vel S. Ioannis Baptistae, vel S. Ioseph, vel Apostolorum, aut Duplex I. vel II. classis, aut agatur de Festo, quod vel Lectiones habeat proprias, non vero de Communi, vel occurrat in Feriis Lectiones de Scriptura non habentibus, ideoque Lectiones de Communi necessario recipiat. In Festis vero, in quibus hucusque erant Lectiones de Communi, Responsoria vero propria, retineantur eadem Lectiones cum propriis Responsoriis.

5. Porro sic erit persolvendum Officium in Festis Duplicibus et Semiduplicibus superius non exceptis:

Ad Matutinum Invitatorium, Hymnus, Lectiones II. et III. Nocturni ac Responsoria trium Nocturnorum propria, vel de Communi: Antiphonae vero, Psalmi et Versus trium Nocturnorum, nec non Lectiones I. Nocturni de FERIA occurrente.

Ad Laudes et ad Vesperas Antiphonae cum Psalmis de FERIA; Capitulum, Hymnus, Versus et Antiphona ad *Benedictus* vel ad *Magnificat* cum Oratione aut ex Proprio, aut de Communi. Ad Horas minores et Completorium Antiphonae cum Psalmis semper dicuntur de occurrente FERIA. Ad Primam pro Lectione brevi legitur Capitulum Nonae ex Proprio, vel de Communi. Ad Tertiam, Sextam et Nonam Capitulum Responsorium, breve et Oratio pariter sumuntur vel ex Proprio, vel de Communi.

6. In Officio S. Mariae in Sabbato et in Festis Simplicibus sic Officium persolvendum est: ad Matutinum Invitatorium et Hymnus dicuntur de eodem Officio vel de iisdem Festis; Psalmi cum suis Antiphonis et Versu de Feria occurrente; i. et ii. Lectio de Feria, cum Responsoriis propriis, vel de Communi; iii. vero Lectio de Officio vel Festo, duabus Lectionibus in unam iunctis, si quando duae pro Festo habeantur: ad reliquas autem Horas omnia dicuntur, prouti supra, n. 5, de Festis Duplicibus expositum est.

7. In Feriis et in Festis Simplicibus Psalmi ad Matutinum, qui in novo Psalterio in tres Nocturnos dispositi inveniuntur, dicantur sine interruptione cum suis novem Antiphonis usque ad tertium Versum inclusive, omissis Versibus primo et secundo.

#### TITULUS II.—*De Festorum praestantia.*

1. Ut recte dignoscatur quale ex pluribus Officiis sit praestantius et proinde sive in occurrentia, sive in concurrentia, sive in ordine repositionis aut translationis praefendum, sequentes praestantiae characteres considerandi sunt:

(a) *Ritus altior*, nisi occurrat Dominica, vel Feria, vel Octava privilegiata, vel etiam quaelibet dies Octava iuxta Rubricas.

(b) *Ratio Primarii aut Secundarii.*

(c) *Dignitas Personalis*, hoc ordine servato: Festa Domini, B. Mariae Virginis, Angelorum, S. Ioannis Baptistae, S. Ioseph, SS. Apostolorum et Evangelistarum.

(d) *Sollemnitatis externa*, scilicet si Festum sit feriatum, aut celebretur cum Octava.

2. In occurrentia, et in ordine repositionis aut translationis alius quoque character considerandus est, nempe:

(e) *Proprietas Festorum.* Dicitur Festum alicuius loci proprium, si agatur de Titulo Ecclesiae, de loci Patrono etiam secundario, de Sancto (in Martyrologio vel in eius appendice approbata descripto), cuius habetur corpus vel aliqua insignis et authentica reliquia, vel de Sancto, qui cum Ecclesia, vel loco, vel personarum coetu specialem habeat rationem. Igitur Festum quodvis istiusmodi proprium, ceteris paribus, praefertur Festo Universalis Ecclesiae. Excipiuntur tamen Dominicae, Feriae, Octavae et Vigiliae privilegiatae, nec non Festa primaria Duplicia i. classis Universalis Ecclesiae, quae uniuscuiusque loci propria considerantur et sunt. Festum autem Universalis Ecclesiae, cuiusvis ritus, quia est praeceptivum, ceteris paribus, praeferritur debet Festis aliquibus locis ex mero Indulto S. Sedis concessis, quae tamen propria, sensu quo supra, dici nequeunt.

TITULUS III.—*De Festorum occurrentia accidentali eorumque translatione.*

1. De Dominicis maioribus I. classis, quodvis Festum in eis occurrat, semper faciendum est Officium: Dominicae vero II. classis cedunt tantummodo Festis Duplicibus I. classis, quo in casu de Dominica fit commemoratio in utrisque Vesperis, Laudibus et Missa cum IX. Lectione ad Matutinum.

2. De Dominicis minoribus, seu per annum, semper fieri debet Officium, nisi occurrat Festum quodcumque Domini, aut aliquod Duplex I. vel II. classis, aut dies Octava Festorum Domini, quo in casu in Officio Festi vel diei Octavae fit commemoratio Dominicae in utrisque Vesperis et Laudibus et Missa cum IX. Lectione ad Matutinum. Si Dominica infra Octavam Nativitatis occurrat in Festo S. Thomae Ep. M. aut in Festo S. Silvestri P. C., fit Officium de ipsa Dominica cum commemoratione Festi occurrentis; quo in casu die 30 Decembris, in Officio diei infra Octavam, Lectiones I. et II. Nocturni sumuntur e Festo Nativitatis, cum Responsoriis Dominicae. Quoad Dominicam vero, quae occurrat a Festo Circumcisionis usque ad Epiphaniam, nihil innovetur.

3. Duplicia I. et II. classis, quae seu ab aliqua Dominica maiori, seu a nobiliori Officio impediuntur, transferenda sunt in proximiorum insequentem diem, quae libera sit ab alio Festo Duplici I. vel II. classis, vel ab Officiis huiusmodi Festa excludentibus; salvo tamen privilegio a Rubricis concessa Festivitatibus Purificationis et Annuntiationis B. M. V., nec non Commemorationis sollemnis S. Ioseph.

4. Festa duplicia maiora cuiusvis dignitatis et Duplicia minora Doctorum Ecclesiae non amplius transferri possunt, sed quando impediuntur, de eis fiat commemoratio, uti de aliis Duplicibus minoribus impeditis Rubricae disponunt (salvo quod numero sequenti statuitur de omittenda in Dominicis IX. Lectione historica), nisi forte occurrant in Duplicis I. classis, in quibus nullius Officii agenda est commemoratio, nisi de occurrenti Dominica, vel de Feria, aut Octava privilegiata.

5. Porro si in Dominica maiori occurrat Officium Duplex maius aut minus, vel Semiduplex, vel Simplex, fiat de Dominica cum commemoratione Officii occurrentis in utrisque Vesperis (de Simplici tamen in primis Vesperis tantum) Laudibus et Missa, sine IX. Lectione historica. Idem fiat in Dominicis minoribus, nisi in eis occurrat Festum quodcumque Domini, aut quodvis Duplex I. vel II. classis, aut dies Octava Festorum Domini, quo in casu, ut supra n. 2 dictum est, fiat de Festo, vel de Octava cum commemoratione et IX. Lectione Dominicae.



6. Dies, in qua celebratur Commemoratio omnium Fidelium Defunctorum, excludit translationem cuiusvis Festi.

*TITULUS IV.—De Festorum occurrentia perpetua eorumque repositione.*

1. Festa omnia ritus Duplicis sive maioris sive minoris, aut Semiduplicis, si perpetuo impediuntur, reponuntur in primam diem liberam, iuxta Rubricas.

2. Festa Duplicia I. et II. classis perpetuo impedita reponuntur, tamquam in sedem propriam, in primam diem liberam ab alio Festo Duplici I. aut II. classis, vel ab aliqua die Octava, vel ab Officiis huiusmodi Festa excludentibus, salvo privilegio Festivitati Purificationis B. M. V. concesso.

3. Dominicae maiores excludunt assignationem perpetuam cuius Festi Duplicis etiam I. classis: Dominicae vero minores assignationem excludunt cuiuscumque Duplicis maioris aut minoris, nisi sit Festum Domini. Festum SS. Nominis Mariae perpetuo assignatur diei duodecimae mensis Septembris.

4. Dies II. Novembris excludit tum Festa occurrentia quae non sint Duplicia I. classis, tum Festa perpetuo reponenda cuiusvis ritus.

*TITULUS V.—De concurrentia Festorum.*

1. Dominicae maiores Vesperas habent integras in concurrentia cum quovis Festo, nisi sit ritus Duplicis I. aut II. classis: ideoque in primis Vesperis sumuntur Antiphonae cum Psalmis de Sabbato; in Adventu tamen dicuntur Antiphonae de Laudibus Dominicae cum iisdem Psalmis de Sabbato.

2. Dominicae minores cedunt Vesperas, tum Duplicibus I. aut II. classis, tum omnibus Festis Domini, tum diebus Octavis Festorum Domini: integras autem habent Vesperas in concursu cum aliis Festis, sumptis in I. Vesperis Antiphonis et Psalmis de Sabbato.

3. Leges, quibus ordinantur Vesperae infra Octavam Nativitatis Domini, immutatae manent.

*TITULUS VI.—De Commemorationibus.*

1. In Duplicibus I. classis non fiat commemoratio de praecedenti, nisi fuerit aut Dominica quaevis, etiam per annum, aut Duplex I. vel II. classis, aut dies Octava alicuius Festi Domini primarii, aut dies infra Octavam privilegiatam, aut Feria maior. In occurrentia fiat tantum commemoratio de Dominica quacumque, de Octava privilegiata et de Feria maiori. De sequenti

vero Officio (etiam ad modum Simplicis redacto) fiat semper commemoratio, minime autem de die infra Octavam non privilegiatam aut de Simplici.

2. In Duplicibus II. classis de praecedenti Officio semper fieri debet commemoratio, nisi fuerit de aliquo Festo Semiduplici, vel de die infra Octavam non privilegiatam. In occurrentia fit commemoratio ed quavis Dominica, de quolibet Duplici vel Semiduplici ad modum Simplicis redacto, de Octava privilegiata, de Feria maiori et de Vigilia: de Simplici vero fit tantum in Laudibus et in Missis privatis. De sequenti autem Officio quolibet, etiam Simplici vel ad modum Simplicis redacto, fit semper commemoratio, ac etiam de die infra Octavam, si in crastino Officium de ea agendum sit; et tunc cum Antiphona et Versiculo et I. Vesperis Festi.

3. Licet Festa Domini eorumque Octavae privilegio gaudeant ut in occurrentia praevaleant Dominicis minoribus, nihilominus, quando plures fieri debeant commemorationes (cauto quod in Vesperis semper fiat prima commemoratio de Officio concurrenti, cuiusvis ritus et dignitatis), tam in Vesperis, quam in Laudibus et Missa hic ordo servetur: 1°. de Dominica qualibet; 2°. de die infra Octavam Epiphaniae aut Corporis Christi; 3°. de die Octava; 4°. de Duplici maiore; 5°. de Duplici minore; 6°. de Semiduplici; 7°. de die infra Octavam communen; 8°. de Feria VI. post Octavam Ascensionis; 9°. de Feria maiori; 10°. de Vigilia; 11°. de Simplici.

**TITULUS VII.**—*De conclusionem propria Hymnorum et Versu proprio ad Primam, de Suffragiis Sanctorum, de Precibus, de Symbolo Athanasiano et de tertia ordinatione in Missa.*

1. Quando eadem die occurrunt plura Officia, quae propriam habeant conclusionem vel proprium Versum ad Primam, conclusio et Versus dicantur, quae propria sunt Officii, quod ea die recitatur.

2. Deinceps, quando facienda erunt Suffragia Sanctorum, unum tantum fiet Suffragium, iuxta formulam propositam in Ordinario novi Psalterii.

3. Symbolum Athanasianum additur ad Primam in Festo SS. Trinitatis et in Dominicis tantummodo post Epiphaniam et post Pentecosten, quando de eis persolvendum est Officium salva exceptione, de qua n. sequenti.

4. Quando in Dominica fit commemoratio de aliquo Officio Duplici, vel de die Octava, vel de die infra Octavam, omittuntur Suffragium, Preces, Symbolum *Quicumque* et tertia Oratio in Missa.

TITULUS VIII.—*De Officii votivis deque aliis Officiis additiis.*

1. Cum per hanc novam Psalterii dispositionem causae cessaverint Indulti Generalis d. d. 5 Iulii 1883 pro Officiis votivis, haec ipsa Officia, et alia similia ex particularibus indulta concessa, tolluntur omnino et sublata declarantur.

2. Cessat pariter obligatio recitandi in Choro, diebus a Rubricis hucusque vigentibus praescriptis, Officium parvum B. Mariae Virginis, Officium Defunctorum, nec non Psalmos Graduales ac Paenitentiales. Capitula vero, quae ad ista Officia addititia ex peculiari constitutione aut legato tenentur, a Sancta Sede eorum commutationem impetrabunt.

3. In festo S. Marci et in Triduo Rogationum integrum manet onus recitandi Litanias Sanctorum, etiam extra Chorum.

TITULUS IX.—*De Festis Dedicationis ac Tituli Ecclesiae et de Patronis.*

1. Festum Dedicationis cuiuslibet Ecclesiae est semper primum, et Festum Domini.

2. Anniversarium Dedicationis Ecclesiae Cathedralis et Festum Titulare eiusdem celebranda sunt sub ritu Duplici i. classis cum Octava per totam Dioecesim ab universo Clero saeculari et etiam regulari Kalendarium Dioecesanum adhibente: a Regularibus vero utriusque sexus in eadem Dioecesi commorantibus ac proprium Kalendarium habentibus, praeter sub ritu Duplici i. classis, absque tamen Octava.

3. Quum Sacrosancta Lateranensis Archibasilica omnium Ecclesiarum Urbis et Orbis sit mater et caput, tum ipsius Dedicationis Anniversarium, tum Festum Transfigurationis Domini, quod, praeter magnam Resurrectionis Dominicae sollemnitatem, tamquam Titulare ab ipsa recoli solet, ab universo Clero tam saeculari quam regulari, etiam ab illis qui peculiarem ritum sequuntur, sub ritu Duplici ii. classis deinceps celebrabitur.

4. Festum Patroni principalis Oppidi, vel Civitatis, vel Dioecesis, vel Provinciae, vel Nationis, Clerus saecularis, et regularis ibi degens et Kalendarium Dioecesanum sequens sub ritu Duplici i. classis cum Octava celebrabit: Regulares vero ibidem commorantes et Kalendarium proprium habentes, idem Festum, quamvis feriatum numquam fuerit, eodem ritu celebrabunt, absque tamen Octava.



TITULUS X.—*De Missis in Dominicis et Feriis deque Missis pro Defunctis.*

1. In Dominicis, etiam minoribus, quodcumque Festum occurrat, dummodo non sit Festum Domini, vel eius dies Octava, aut Duplex I. vel II. classis, Missa semper dicenda erit de Dominica cum commemoratione festi. Quod si Festum commemorandum sit Duplex, tunc omittenda est III. Oratio.

2. In Feriis quadragesimae, Quatuor Temporum, II. Rogationum, et in Vigiliis, si occurrat fieri Officium alicuius Festi Duplicis (non tamen I. vel II. classis) aut Semiduplicis, Missae privatae dici poterunt ad libitum, vel de Festo cum commemoratione ultimoque Evangelio Feriae aut Vigiliae, vel de Feria aut Vigilia cum commemoratione Festi: prohibentur tamen Missae votivae privatae, aut privatae pro Defunctis: quae item prohibentur in Feria, in qua anticipanda vel reponenda est Missa Dominicae. In Quadragesima vero Missae privatae Defunctorum celebrari tantum poterunt prima die cuiuscumque hebdomadae libera in Calendario Ecclesiae, in qua Missa celebratur.

3. Si alicubi aliquod Festum impeditum a Dominica minore, celebratur ex voto, vel cum populi concursu (cuius rei iudex erit Ordinarius), Missae de eodem festo impedito celebrari poterunt, dummodo una Missa de Dominica ne omittatur. Quoties extra ordinem Officii cantetur vel legatur aliqua Missa, si facienda sit commemoratio aut Dominicae, aut Feriae, aut Vigiliae, semper de hisce etiam Evangelium in fine legatur.

4. Ad Missam Dominicae etiam minoris, cum commemoratione Festi Duplicis tum maioris tum minoris ac diei infra Octavam quomodolibet celebrandam, retinetur color proprius Dominicae, cum Praefatione SSmae. Trinitatis, nisi adsit propria Temporis, vel Octavae alicuius Festi Domini.

5. Leges pro Missis Defunctorum in cantu, immutatae manent. Missae vero lectae permittuntur in Duplicibus tantummodo in die obitus, aut pro die obitus, dummodo ne sit Festum de praeepto, aut Duplex I. vel II. classis, vel Feria excludens Duplicia I. classis. Quoad vero Missas lectas Defunctorum dicendas diebus ritus Semiduplicis aut Simplicis, in posterum numquam celebrari poterunt in Feriis n. 2 enumeratis, salva tamen exceptione ibidem admissa. Licebit tamen in huiusmodi Missis de Feria orationem addi pro Defunctis, pro quibus Sacrificium applicatur, paenultimo loco, prout permittit Rubrica Missalis. Cum autem ut applicari possint Indulgentiae Altaris privilegiati, Missae Defunctorum debuerint hucusque in nigris celebrari,

Summus Pontifex easdem indulgentias in posterum benigne concedit, licet Missa dicatur de Feria, cum oratione pro Defunctis. In reliquis autem Feriis per annum n. 2 non exceptis, nec non in Semiduplicibus, infra Octavas non privilegiatas et in Simpli-  
cibus, Missae Defunctorum sicut et aliae Missae votivae dici poterunt iuxta Rubricas.

TITULUS XI.—*De Collectis in Missis.*

Quod ad Collectas ab Ordinariis locorum imperatas attinet, deinceps prohibentur (nisi sint pro re gravi praescriptae) non tantum in Vigiliis Nativitatis et Pentecostes et in Duplicibus I. classis, sed etiam in Duplicibus II. classis, in Dominicis Maioribus, infra Octavas privilegiatas, et quandocumque in Missa dicendae sint plus quam tres Orationes a Rubrica eo die praescriptae.

TITULUS XII.—*De Missis Conventualibus.*

In Ecclesiis, in quibus adest obligatio Chori, una tantum Missa cum assistentia Choralium semper celebretur; et quidem de Officio diei, nisi aliter Rubricae disponant; aliae Missae, quae hucusque cum praedicta assistentia celebrabantur, in posterum extra Chorum legantur, post propriam Horam Canonicam; excipiuntur tamen ab hac regula Missae in Litanis maioribus et minoribus, et Missae in Festo Nativitatis Domini. Excipiuntur pariter Missae in anniversariis Creationis et Coronationis Summi Pontificis, Electionis et Consecrationis seu Translationis Episcopi, nec non in anniversario ultimi Episcopi defuncti, et omnium Episcoporum aut Canonicorum; omnesque Missae ex fundatione.

TITULUS XIII.—*De Commemoratione Omnium Fidelium Defunctorum.*

1. In Commemoratione omnium Fidelium Defunctorum, omissis Officio et Missa diei currentis, fit tantum Officium cum Missa pro Defunctis, prout in Appendice novi Psalterii praescribitur.

2. Si die 2 Novembris occurrat Dominica vel aliquod Duplex I. classis, Commemoratio Defunctorum celebrabitur die proxime sequenti, similiter non impedita; in qua, si forte occurrat Duplex II. classis hoc transfertur iuxta regulam traditam Tit. III., n. 3.

PAESCRIPTIONES TEMPORARIAE.

1. Kalendaria uniuscuiusque Dioeceseos, aut Ordinis seu Congregationis Breviario Romano utentium, pro anno 1913, ad Regulas supra traditas omnino redigenda sunt.

II. Diebus Dominicis, quibus in Kalendariis proximi anni 1912 inscribuntur, sub ritu Duplici maiori vel minori, Festa Sanctorum, vel Angelorum, vel etiam B. Mariae Virginis, vel dies Octava, quae non sit Festorum Domini, tum Officium in privata recitatione, tum Missae lectae erunt ad libitum, vel prout notatur in Calendario anni 1912, vel de Dominica cum commemoratione duplicis maioris aut minoris. In Feriis quoque, de quibus Tit. x., n. 2, Missae privatae celebrari poterunt, ut ibi adnotatur.

III. Quod Tit. XIII. harum Rubricarum dispositum est quoad Commemorationem Omnium Fidelium Defunctorum, inde ab anno 1912, in usum omnino deducendum est.

IV. Usque dum nova correctio Breviarii et Missalis Romani, a Sanctissimo Domino Nostro decreta, vulgetur :

(a) Kalendaria perpetua Sacrae Rituum Congregationi reformatanda et approbanda deferri non debent ;

(b) De Festorum augendo ritu, vel de Festis novis invehendis nulla fiat postulatio ;

(c) Festa particularia, sive B. Mariae Virginis, sive Sanctorum aut Beatorum, ritus Duplicis maioris aut minoris, Dominicis diebus assignata, locorum Ordinarii seu Superiores Regularium, aut in utrisque Vesperis, Laudibus et Missa commemoranda praescribant ; aut in aliam diem, validis S. R. C. oblatis argumentis, transferenda curent ; aut potius omittant.

(d) Nulla interim facta correctione Rubricarum, Regulae superius traditae in novis Breviariis et Missalibus post Rubricas Generales inserantur, omissis S. R. C. Decretis, quae hucusque in principio Breviarii inserta inveniuntur.

(e) In futuris Breviarii editionibus mutantur, ob novam Psalterii reformationem, sequentes Antiphonae in Laudibus :

*In Dominica Sexagesimae :*

*Ant. 5. In excelsis \* laudate Deum.*

*In Dominica III. Quadragesimae :*

*Ant. 3. Adhaesit anima mea \* post te, Deus meus.*

*In Dominica IV. Quadragesimae :*

*Ant. 3. Me suscepit \* dextera tua, Domine.*

*In Feria IV. Maioris Hebdomadae :*

*Ant. 3. Tu autem, Domine, \* scis omne consilium eorum adversum me in mortem.*

*Ant. 5. Fac, Domine, \* iudicium iniuriam patientibus : et vias peccatorum disperde.*



## CASE OF NULLITY OF MARRIAGE

SACRA ROMA ROTA

DIVIONEN. (DIJON)

NULLITATIS MATRIMONII—TURK-JALLU

*Pio PP. X. feliciter regnante, Pontificatus Dominationis suae anno octavo, die 20 Ianuarii 1911, RR. PP. DD. Gulielmus Sebastianelli, Seraphinus Many, Ponens, et Franciscus Heiner, Auditores de turno, in causa Divionen. Lugdunen.—Nullitatis Matrimonii, instante pro appellatione Germana Jallu adversus sententiam Curiae Metropolitanæ Lugdunensis, inter eandem Germanam Jallu, repraesentatam per procuratorem Nazarenum Ferrata, ex officio deputatum, et Georgium Turk, contumacem, interveniente et disceptante in causa Defensore Vinculi ex officio, sequentem definitivam tulerunt sententiam.*

*Facti species.*—Die 29 Septembris ann. 1904, Germana Jallu et Georgius Turk matrimonium ritu solito contraxerunt, in loco dicto Pontailier, dioecesis Divionensis in Gallia. Hae nuptiae infelicem exitum habuerunt, et ideo inter coniuges primo separatio thori et deinde sic dictum divortium civile institutum est. Cum ergo uxor Germana Jallu, mulier catholica et pia, ad alias nuptias transire sibi proposuisset, suum cum Georgio matrimonium tamquam nullum impugnare coepit ex defectu formae Tridentinae, qui nempe parochus loci Pontailier, qui non erat parochus proprius, matrimonium celebraverat sine sufficienti delegatione parochi proprii alterutrius sponsi. Supplicem ergo libellum obtulit Curiae Divionensi, quae pro nullitate matrimonii, die 9 Iulii 1907, sententiam tulit. A qua senentia cum defensor Vinculi Divionensis appellasset ad Curiam metropolitanam Lugdunensem, haec e contra, die 12 Decembris 1907, matrimonium uti validum declaravit et confirmavit. Ab hac ergo Curiae Metropolitanæ sententia Germana Jallu appellavit ad S. Sedem, et inde in H. S. O. dubium, prout de more concordatum est ut sequitur :

*An constet de nullitate matrimonii in ca.u ?*

Porro huic dubio RR. PP. DD. Auditores respondendum censuerunt : *Negative.*

*Quod ad ius spectat.* (Agitur de iure ante Decretum 'Ne temere' vigente.) Recolendum est celeberrimum Concilii Tridentini Decretum 'Tametsi,' cap 1, sess. 24, *De Reformatione matrimonii*, in quo haec statuta sunt : ' Qui aliter quam praesente parochi, vel alio sacerdote de ipsius parochi seu Ordinarii licentia, et duobus vel tribus testibus matrimonium contrahere

attentabunt, eos Sancta Synodus ad sic contrahendum omnino inhabiles reddit.' Unde, quando matrimonium celebratur coram aliquo sacerdote, qui non sit parochus vel Ordinarius alterutrius sponsi, requiritur sub poena nullitatis matrimonii, licentia parochi vel Ordinarii. Hanc autem licentiam nulli speciali conditioni aut legi subiectam voluit Tridentina Synodus, sed iure communi regulandam et ordinandam relinquit.

Illa porro licentia concessa sacerdoti celebrandi matrimonium est in genere facultatum seu privilegiorum, aut etiam, lato sensu, delegationum iurisdictionis (licet non sit stricto sensu delegatio iurisdictionis, cum actus quo parochus interest matrimonio non sit exercitium iurisdictionis). Actus itaque quo conceditur licentia, assimilatur actui, quo conceditur privilegium, seu facultas, seu iurisdictio.

Iamvero : 1°. Qui concedit facultatem, privilegium, vel iurisdictionem, hanc dare debet sciens et volens, est enim quaedam donatio ; idem ergo dicendum est de eo qui concedit licentiam ad matrimonium : itaque requiritur actus voluntatis positivus, actualis vel virtualis, quin sufficiat intentio interpretativa, quae adesset in hoc vel illo casu, sed de facto non adest, nec intentio habitualis, quae nihil aliud est quam dispositio ad concedendam facultatem vel delegationem, si petatur. Non requiritur autem actus voluntatis explicitus, qui nempe referatur ad hoc matrimonium in specie ; sed sufficit actus voluntatis implicitus, in alio nimirum generaliori contentus, v.g., si parochus dicat sacerdoti : *delego te ad omnia matrimonia celebranda* ; vel etiam, *ad omnia sacramenta administranda* ; vel etiam, *ad totam curam pastoralem exercendam*. Cuius ratio est quod, ut supra dictum est, Sacra Tridentina Synodus licentiam ad matrimonium celebrandum nulli restrictioni aut limiti subiecit. Sicut ergo sufficit, ad aliquem actum in specie explendum, facultas implicita, in alia generaliori contenta ; ita etiam, ad aliquod matrimonium a sacerdote non paracho celebrandum, sufficit licentia implicita, in alia nimirum generaliori contenta. Quod semper tenuit S. Congregatio Concilii, ut multis ostendit Pallottini, *Collectio Conclusionum*, etc. v. *Matrimonium*, § 16, n. 72 seqq.

2°. Quod autem spectat ad ipsum sacerdotem, cui ad celebrandum matrimonium licentia conceditur, debet eam cognoscere et acceptare ; ut enim iam supra dictum est, haec concessio licentiae, sicut et concessio facultatis seu privilegii, est quaedam donatio, donatio autem non perficitur nisi concursu duarum voluntatum, voluntatis nempe eius, qui dat, et voluntatis eius cui datur. Unde,

iuxta distinctionem in materia privilegiorum adhibitam, vel ipse sacerdos petiit licentiam, et tunc licentia ei prodest a momento quo concessa est, licet eam nondum cognoscat, quia nempe in momento concessionis, sufficienter adest concursus duarum voluntatum; vel non ipse licentiam petiit, sed ei conceditur motu proprio ipsius concedentis, aut ad instantiam alicuius tertiae personae, et tunc necessarium est ut sacerdos licentiam concessam cognoscat, eamque acceptet; alioquin non adesset requisitus duarum voluntatum concursus. Et haec est doctrina communissime recepta apud Doctores tum antiquos, v.g., Sanchez, *De Matrimonio*, lib. 3, disp. 36; Coscius, *De separatione thori coniugalis*, lib. I, cap. 14, n. 21; Ferraris, *Bibliotheca*, v. *Matrimonium*, art. 9, n. 11; Giraldis, *Expositio Iuris Pontificii*, P. II., sect. 115, n. 14; Barbosa, *De Parocho*, P. II., cap. 21, n. 75; Schmalzgrueber, in titul. de *Clandestina desponsatione*, n. 203 seq.; tum recentiores, v.g., D'Annibale, *Summulat*, t. I., n. 74, nota 32, et t. III., n. 461, nota 64; Gasparri, *De Matrimonio*, n. 1130-1131, edit. 3; Wernz, *Ius Matrimoniale*, n. 180, ad 3, nota 218; Ballerini-Palmieri, *Opus Morale*, tom. VI., de *Matrimonio*, n. 1230, etc. Quam pariter doctrinam tenuit S. Congregatio Concilii, in pluribus decisionibus, notanter in decisionibus diei 5 Decembris 1626, et 15 Aprilis 1628, et in aliis quas refert Pallottini, *op. cit.*, n. 53-57. Ubi tamen notandum est hac in re non deesse controversiam, eamque sat gravem esse.

*Quod ad factum spectat.* Sacerdos Franciscus Chevalier, parochus loci dicti Pontailier, die 29 Septembris 1904, matrimonio coniunxit Georgium Turk et Germanam Jallu. Sacerdos Maes, parochus proprius Georgii Turk, huic ante matrimonium tradidit schedulam attestationis bannorum proclamatorum, cui coniuncta erat ad cautelam licentia celebrandi matrimonium; quam schedulam Georgius tradere debebat, et revera tradidit in manus parochi matrimonium celebraturi, scilicet Francisci Chevalier; his vero, qui se putabat parochum proprium sponsae, non attendisse se dicit ante matrimonium ad praefatam licentiam attestationi bannorum coniunctam. Cetera facta particularia hic omittuntur, quia sunt extra controversiam.

In hac causa duo proposita sunt capita nullitatis matrimonii: unum ex parte parochi delegantis, qui non dedit licentiam efficacem et sufficientem; alterum ex parte sacerdotis delegati, qui licentiam sibi concessam ante matrimonium ignoravit.

*Quod ad prius caput nullitatis spectat,* haec declaranda sunt: Sacerdos Maes, parochus proprius Georgii Turk, sacerdoti matri-



monium celebraturo, per manus Georgii, tradidit schedulam attestationis bannorum, quae sic sonat : '.... Reverende admodum Domine, *semel* sine obice proclamati sunt in ordine ad matrimonium, *Georgius Turk* et *Germana Jallu*. Nihil igitur obstat, nostra ex parte, quominus benedictionem nuptialem impertiatur Reverentia Vestra, vel Delegatus Vester, etiamsi specialis ad hoc delegatio nostra necessaria foret. Reverentiae Vestrae humillimus famulus (subscripsit) *Em. Maes, pastor*. A Monsieur le Curé de la paroisse de .... à .... Sacramentaliter audivi G. Turk.' Omnia sunt typis impressa, praeter nomina sponsorum, subscriptionem parochi, et vocabulum *semel*. Uti patet, attestationi de bannis promulgatis coniuncta erat, ad cautelam, licentia, seu delegatio ad celebrationem matrimonii, his verbis : 'etiamsi ad hoc specialis delegatio nostra necessaria foret.' Qua mente et animi dispositione hanc licentiam seu delegationem concesserit parochus Aemilius Maes, ipse aperit in sua depositione : 'Je reconnais avoir donné cette délégation dans les conditions normales de toutes les délégations ordinaires de mariage, sous une formule imprimée qui se donne toujours avec les attestations de bans. Je considère ces expressions (etiamsi specialis ad hoc delegatio nostra necessaria foret) comme n'étant pas de pure forme, mais intentionnelles .... J'ai donné cette délégation d'une façon administrative, sans qu'elle ait été sollicitée, et sans songer qu'elle fût nécessaire, et par conséquent sans intention actuelle de la donner ni attention spéciale ; cependant avec l'intention habituelle de donner ces délégations quand elles sont nécessaires.'

Unde pro nullitate matrimonii dici potest et dicitur : Ut ipse confitetur parochus Aemilius Maes, in hac concedenda licentia seu delegatione, non habuit ullam intentionem actualem aut virtualement, sed tantummodo administrativam seu habitualement. Porro haec intentio habitualis non sufficit ad valorem delegationis, ut supra dictum est, ergo nulla est licentia, nec valet matrimonium.

Verum, si intimius rem perscrutemur, aliud prorsus dicendum est. Quando nimirum parochus Aemilius Maes propria manu subscripsit schedulam supra descriptam, eamque in manus Georgii tradidit, procul dubio fuit in eius mente intentio actualis, imo actualissima dandi et concedendi quidquid erat in hac schedula contentum. Quando enim quis subscribit aliquem actum aut aliquam formulam, spondet omnia quae sunt in hoc actu seu in hac formula, et de his omnibus conscientiam suam onerat. Et hoc in qualibet actorum aut contractuum genere intelligitur. Sic v.g. in testamento vel donatione vel venditione, accurate

praeparatur ab eo cuius interest vel cuius est muneris, *schedula contractus*, in qua continentur non tantum res praecipuae contractui subiectae, sed etiam res minus principales seu accessoriae. Quando igitur ego subscriptionem meam *schedulae* appono, intentionem habeo actualement dandi, vendendi, etc., quaecumque in *schedula* continentur; quae quidem intentio est explicita quoad ea, quae praesentia in mente habeo, implicita vero quoad ea, quorum non amplius memini, sed quae in *schedula* sunt contenta; quae omnia, inquam, intentione actuali, vi subscriptionis meae, dono, trado, vel respective vendo, et de his omnibus conscientiam meam onero, nisi quid expresse excipiam. Sic igitur est in causa praesenti: *schedula*, da qua agitur, praeparata est sive iussu episcopi, qui formulam adhibendam in scribenda *schedula* praescripsit, sive cura parochi, qui eam fecit typis imprimi; haec autem *schedula* duo continet: primum attestationem authenticam de bannis promulgatis; alterum concessionem delegationis ad cautelam. Quando igitur parochus Aemilius Maes propria manu praedictam *schedulam* subscripsit, intentionem actualement habuit dandi, concedendi, faciendi quidquid in ea continebatur; quae intentio erat explicita quoad hanc partem, quam praesentem in mente habebat, scilicet attestationem de bannis proclamatis, implicita vero quoad illam partem, ad quam actualiter non attendebat, sed quae nihilominus contenta erat in *schedula*, et quam saepius in similibus *schedulis* legerat, scilicet concessionem delegationis ad cautelam; unde rem utramque concessit.

Nec dicatur clausulam, quae refertur ad delegationem, nimirum: 'etiamsi specialis ad hoc delegatio nostra necessaria foret,' non continere nisi intentionem quamdam habitualement concedendi delegationem in casu hypothetico, scilicet si est necessaria.

Nam haec verba *schedulae* reincident in sequentia: '*Concedo etiam delegationem, si est necessaria*'; alioquin finis clausulae non attingeretur, qui finis est reddendi, quantum est ex parte parochi, matrimonium validum, ut dicitur in *schedula*: '*Nihil igitur obstat nostra ex parte quominus benedictionem nuptialem impertiatur Rev. Vestra, etiamsi, etc.*' Igitur parochus Maes, qui subscribit *schedulam*, concedit licentiam si est necessaria; haec autem conditio: '*si est necessaria*' non obstat validitati concessionis, ut notissimum est in tota materia contractuum et donationum; imo cum sit conditio, non de futuro, sed de praesenti, non retardat vim delegationis, quae statim efficaciam habet. Hanc ergo licentiam seu delegationem parochus Maes concessit, non intentione solum habituali aut interpretativa (licet ipse minus accurate

ita asserat), sed intentione vere et proprie actuali, licet implicita, in sensu supra exposito. Aut, si mavis, quando parochus Maes, prima vice, in hac schedula ab Episcopo vel a se praescripta, praeparata, et typis impressa, animadvertit ad hanc clausulam delegationis ad cautelam, tunc habuit intentionem actualem concedendi delegationem (si esset necessaria), quoties subscripturus erat schedulam; quae intentio virtualiter perseveravit in omnibus casibus in quibus revera subscripsit schedulam, et proinde etiam in nostro casu. Nec requiritur ad valorem delegationis, ut adsit actus voluntatis expressus et explicitus pro singulis vicibus; tum quia sufficit voluntas seu intentio virtualis, sicut pro quolibet actu et contractu, tum quia sufficit intentio implicita, nimirum, ut supra dictum est, in alia generali contenta, ut in his formulis: '*Te delego ad omnia matrimonia, vel Dabo delegationem, quoties subscribam formulam,*' et in aliis huiusmodi.

Nec etiam dicatur, praefatam licentiam seu delegationem nullam vim habere, utpote nimis vagam et indeterminatam, quia parochus Maes ne sacerdotum quidem nominat aut designat, cui data dicitur licentia; in schedula enim, qualis tradita est in manus Georgii, sic in fine legitur: '*À Monsieur le Curé de la paroisse . . . de . . . à . . .*' quin parochus Maes scripserit nomen parochiae aut loci. Hoc, inquam, non obstat, quia receptum omnino est valere licentiam, quam parochus proprius concedat duobus sponsis contrahendi matrimonium coram sacerdote ab ipsis eligendo; quod pluries decedit S. Congregatio Concilii, ut refert Pallottini, *loco citato*, num. 37, 39; et communiter docent Canonistae: cfr. Gasparri, *De Matrimonio*, n. 1141, tom. 2, p. 168, edit 3<sup>a</sup>; unde a fortiori valida est licentia, quam parochus proprius concedit sponsis contrahendi matrimonium coram sacerdote iam electo et determinato, qualis erat in casu nostro parochus loci 'Pontailler.'

Ex hac igitur parte, caput nullitatis propositum nullo fundamento nititur. Nec dicatur huic conclusioni obstare decisionem S. Congregationis Concilii, in *Annecien.*, 29 Iulii 1905. Nam in casu a S. Congregatione resoluta, adiuncta omnino diversa erant. Agebatur enim de matrimonio contracto coram parochus loci dicti Viry, in Sabaudia, qui non erat parochus proprius alterutrius sponsi, licet se putaret parochum proprium sponsae. Porro parochus S. Iuliani, qui erat parochus proprius sponsi, transmisit ad parochum loci Viry attestationem de bannis promulgatis, quae sic se habet: '*Nous, soussigné, archipêtre curé de St. Julien, certifions qu'il a été fait deux publications avec dispense de la*



troisième, du futur mariage de.... Comme aucune réclamation ne s'est produite à l'encontre du dit mariage, il est permis de procéder à sa célébration canonique' et nihil aliud. Qua recepta attestazione, parochus Viry celebravit matrimonium. Hoc autem matrimonium nullum declaratum fuit a Curia Anneciensi et a S. Congregatione Concilii. Verum, ut patet, ingens discrimen exstat inter hunc casum et praesentem. In nostra enim causa schedula bannorum continet clarissimam licet conditionatam delegationem 'etiamsi specialis ad hoc delegatio nostra necessaria foret,' dum schedula bannorum, in *Annecien.*, nullum vestigium refert delegationis; verba enim supra relata: 'Comme aucune réclamation, etc.' ex sensu genuino et obvio significant tantum, bannis promulgatis, nullum impedimentum revelatum fuisse, et proinde ex hac parte, licite procedi posse ad matrimonium. Verum quidem est parochum S. Iuliani a iudice Anneciensi interrogatum, respondisse: 'Je déclare que par cette formule (schedulae bannorum) mon intention est de donner toute délégation, si besoin est'; sed, cum haec intentio nullo modo expressa sit in dicta formula, iure merito habita fuit uti mere habitualis seu interpretativa, vel uti non sufficienter exterius expressa.

Quod spectat ad alterum nullitatis caput propositum, dicit patronus appellantis parochum loci Pontailler ignorasse licentiam sibi a paracho proprio sponsi concessam, et proinde, iuxta doctrinam supra expositam, communissime a doctoribus traditam, et a S. Congregatione Concilii decisam, hanc licentiam non valere, et ideo matrimonium nullum esse.

Verum hoc argumentum firmum non est. Primo enim non constat Reverendum Chevalier, parochum loci Pontailler, ignorasse licentiam sibi a paracho Maes concessam. De hoc enim facto non bene concordant, in suis depositionibus, Reverendus Chevalier et Reverendus sacerdos Quillet, qui, vice et nomine D. Chevalier, celebravit matrimonium. Reverendus enim Chevalier dicit in sua depositione: 'Ce n'est qu'après la célébration du mariage que j'ai eu connaissance qu'une délégation m'était accordée par M. Maes.' Reverendus autem Quillet dicit: 'Je dois ajouter, si mes souvenirs sont bien précis, qu'au déjeuner après le mariage au presbytère, M. le Doyen, fit devant moi la réflexion qu'il ne savait pas bien s'il était le Curé des Jallu, lesquels venaient passer quelques mois de villégiature chez leur parente Madame de Baudot. Cette réflexion ne laissa pas que de me surprendre, et elle m'aurait même inquiété, si M. le Doyen n'avait ajouté, tout en la louant la formule que les Curés du diocèse de Cambrai

adjoignent au certificat de bans pour déléguer en cas de nécessité le curé destinataire. De ce chef je fus rassuré.' Unde etiam Reverendus Chevalier, in altera depositione ita interrogatus: '14—Si un témoin soutient que vous avez loué cette formule de délégation pendant le déjeuner qui a suivi le mariage, que répondrez-vous?'—sic respondit: 'Je n'en ai aucun souvenir. Si j'avais vu cette délégation, j'en aurais été frappé. S'il se présentait un témoignage formel contre moi sur ce point, je croirais à un défaut de mémoire, qui est possible, mais qui me paraît invraisemblable pour les raisons dites plus haut.' Cum ergo non bene concordent haec duo testimonia, et lapsus memoriae non tantum possibilis, sed et facilis omnino sit, praesertim post tres circiter annos, dicendum est non constare Reverendum Chevalier licentiam sibi concessam ignorasse. Quod enim quis non recordetur alicuius dicti vel facti, praesertim ad tres annos retroascendentis, numquam fuit decisiva probatio, quod revera hoc non dixerit aut fecerit. Caeterum inverisimile prorsus est, ut parochus recipiens foliolum paucarum linearum, perlegerit ea quae in principio scripta erant, quaeque banna promulgata respiciebant, deinde viderit in fine nomen, cognomen et dignitatem scribentis, et praetermiserit formulam delegationis, quae in medio typis impressa reperiebatur. Quod eo magis mirum esset, quod, ut ex actis constat, parochus, ante matrimonii celebrationem, dubitaverit an esset parochus proprius contrahentium, prout patet ex depositionibus Mariae Martinet, matris sponsae, necnon Reverendi Quillet, qui celebravit matrimonium. Unde nullo modo constat Reverendum Chevalier ignorasse licentiam sibi concessam.

Etiam si autem concederetur Reverendum Chevalier licentiam sibi concessam ignorasse, non idcirco constaret de nullitate matrimonii. Nam quod spectat ad decisiones hac in re latas a S. Congregatione Concilii, sic referuntur a Pallottini, *loco citato*, n. 56: 'Supplicatur humiliter a S. Congregatione Concilii resolvi, utrum matrimonium contractum coram sacerdote extraneo, qui habet licentiam a proprio paroco unius ex contrahentibus et ignorat se habere illam, prout etiam unus ex contrahentibus ignorat, sit validum,' S. Congregatio respondit: 'Matrimonium ut supra, contractum a (coram) sacerdote, qui neque certam neque praesumptam scientiam a proprio paroco habuit, non esse validum.' In '*Nullius*' die 5 Dec. 1626, et die 15 Aprilis 1628, in *Dubium ad Cap. 1, sess. 24, De Reformatione matrimonii, et in libro Decretorum, p. 335.*

Porro, quaecumque sit indoles harum decisionum, non dire-

merunt controversiam inter doctores hac de re, ut supra dictum est, ortam. Antequam enim hae decisiones ederentur, disputabant inter se doctores, utrum in sacerdote delegato requiratur scientia et acceptatio delegationis, de qua controversia videre est Sanchez, *De Matrim.*, lib. 3, *disp.* 36, ubi n. 1, pro sententia negative multos et graves auctores refert. Editis autem praefatis decisionibus, licet in dies opinio communior fieret pro sententia affirmativa, remansit tamen controversia. Engel, in *tit. De Clandestina dispensatione*, n. 17, docet ad valorem licentiae non requiri eius scientiam, quia tandem aliquando hoc non requirit Concilium Tridentinum 'Utrum—inquit—haec licentia debuerit ipsi prius innotuisse, hoc in Concilio non est expressum, et quamvis doctores id asserant, tamen fundamentum eorum admodum dubium et controversum est. Cum igitur de iure veteri, de quo tale matrimonium indubie valuerat, non censeatur plus correctum, quam expressum, et in dubio potius favendum matrimonio, cuius irritatio est odiosa et plerumque scandalosa, ita ut vel ex unius Doctoris classici singulari opinione sustineri possit (Sanchez, *De Matrimonio*, lib. 1, *disput.* 18, n. 7), atque aequitas rigori iuris sit praeferenda, plane opinor probabilem esse huius matrominii valorem.' Deinde Engel confutat, et quidem argumentis non spernendis, rationes ab aliis auctoribus, praesertim a Sanchez, allatas. Pro hac eadem Engeliana opinione allegantur plures alii doctores, apud Pallottini, *loco cit.*, n. 51-52.

Cum ergo hac in re adsit controversia, eaque sit gravis, ut ait D'Annibale, *Summula*, t. 1, n. 225, *nota* 26, pag. 212, *editio* 3, procul dubio si agatur de matrimonio iam contracto, ei favendum est. Quam conclusionem sic exprimit Eñus Gasparri: 'Stante controversia, in praxi, si agatur de matrimonio contrahendo, tutior tenenda est sententia; si de contracto, favendum matrimonio donec S. Sedes aliud declaraverit.' *De Matrimonio*, n. 1131, *edit.* 3, t. 2, p. 163. Ita pariter D'Annibale: 'Quam ob rem si quis nec ipse eam (licentiam) petiit, nec scit petitam ab alio concessam fuisse, eaque nihilo minus forte usus fuerit, standum erit pro valore actus, si quid opinor; v.g. si parochus, rogante Sempronio, sinat alium sacerdotem adesse matrimonio, isque et concessionis et petitionis ignarus adstiterit.' *loco cit.*, n. 225, *nota* 27, p. 212.

Quibus omnibus consideratis et sedulo perpensis, Christi nomine invocato, Nos infrascripti Auditores, pro Tribunali sedentes, et solum Deum prae oculis habentes, decernimus, declaramus, et definitive sententiamus *non constare de nullitate matrimonii inter Georgium Turk et Germanam Jallu*, seu proposito dubio respondemus *Negative*; et exinde sententiam Curiae Divionensis



decernimus et declaramus, sententiam autem Curiae Metropolitanae Lugdunensis confirmamus. Statuentes praeterea Germanam Jallu ad expensas iudiciales solvendas teneri, usque ad summam praefixam in Decreto D. Ponentis de reductione expensarum.

Ita pronunciamus, mandantes Ordinariis locorum et ministris Tribunalium, ad quos spectat, ut executioni mandent hanc nostram definitivam sententiam, et adversus reluctantes procedant ad normam sacrorum canonum, et praesertim *cap. 3, sess. XXV., de Reform. Conc. Trid.*; adhibitis iis executivis et coercitivis mediis, quae magis efficacia et opportuna pro rerum adiunctis extitura sint.

Romae, die 20 Ianuarii, 1911.

L. ✠ S.

GULIELMUS SEBASTIANELLI.  
SERAPHINUS MANY, *Ponens.*  
FRANCISCUS HEINER.

Sac. Tancredus Tani, *Notarius.*

LETTER OF HIS HOLINESS POPE PIUS X. TO THE ARCH-  
BISHOP OF CARACAS

EPÍSTOLA

AD R. P. D. IOANNEM BAPTISTAM CASTRO, ARCHIEPISCOPUM CARACENSEM, DE INSTAURANDA CLERI DISCIPLINA

Venerabilis Frater, salutem et apostolicam benedictionem.—Sollicitis Nobis et anxiiis de statu Ecclesiae Venezuelanae aliquid solatii nuper tuae litterae attulerunt, ex quibus cognovimus, nonnullum iam se ostendere spem rerum aliquanto meliorum. Ac primum omnium gaudemus te, Venerabilis Frater, et collegas tuos Delegati Apostolici consiliis, pro conscientia officii, plurimum tribuere; tum sensu gratae voluntatis afficimur in Reipublicae administros maximeque Praesidem illustrem, quos, pro suo iustitiae studio, bene esse animatos erga Ecclesiam videmus. Ceterum, facultatem relinquentes Ecclesiae sui exsequendi muneris, non modo iuste ii dicendi sunt facere, sed sapienter: nisi enim mores et instituta civium religio temperet, nulla potest civitas, utpote instabili nixa fundamento, diu consistere.—Iam vero, ad afflictas res istius Ecclesiae sublevandas celeriter incumbendum est animoseque instandum, ne forte haec mala evadant, dilatione medicinae, insanabilia.—Hunc sibi laborem sumere omnes quidem debent Episcopi ex ista Republica, sed facile vides tuas partes esse, Venerabilis Frater, ut ceteris

contentione studioque antecedas : id a te postulat tuus dignitatis gradus, id ipsum Nos Nobis de tua religione officii spondemus. Novimus iis virtutibus, quae in antistite sacrorum requiruntur, adeo te esse instructum et ornatum, ut in vitam tuam, tamquam in speculum, inspicere omnibus liceat ; nec ignoramus quam indigne feras, tantis incommodis laborare Ecclesiam patriam, cuius es tu quidem studiosissimus. Quare dubium esse non potest, quin ipsius Ecclesiae saluti, quantum est in te, servire velis. Verumtamen nolimus te rei difficultatibus nimium commoveri easque arbitrari maiores esse, quam ut quidquam evinci posse videatur. Magnae profecto moles molestiarum tibi subeundae sunt, conanti pravitates morum corrigere, praesertim si consuetudine inveteraverunt ; sed tu animum cape, divino auxilio confisus, fortiterque contende quoad potes. Si minus tibi contingat ut quaecumque vitiosa sunt emendes, tamen non inanis omnino futurus est labor tuus, et certe consolari te poteris, quod ipse praestiteris omnia, quae debueras. Ad tuam vero diligentiam itemque collegarum tuorum incitandam hoc etiam valeat, quod in eiusmodi causa elaboratis, quae Nobis vobiscum communis est ; et ideo, quidquid consilii ex re ceperitis, omni Nos auctoritate Nostra vobis suffragabimur. Atque hoc intelligant probe et considerent, quicumque se in catholicis numerari volunt, sacrosanctam sibi legem esse factam, ut eos reveantur quos Spiritus Sanctus posuit Episcopos regere Ecclesiam Dei ; non aliter se posse, tamquam membra, cum Capite Ecclesiae cohaerere, nisi cum Episcopis suis cohaereant ; ac propterea neminem contra auctoritatem vestram facere, quin eo ipso contra Vicarium Iesu Christi faciat, seque a catholicae unitatis communicatione segregare velle videatur.—Iam quae sint adhibenda remedia ad tantam varietatem miseriarum, in quibus Venezuelana Ecclesia versatur, vestrum consilium erit : vos populorum vestrorum necessitates videtis et cernitis ; quid pro tempore et pro re opus sit facto, non difficile reperietis. Unum est, quod Nos, apostolico officio impulsus, vehementer etiam atque etiam vos hortamur, ut nimirum ante omnia curetis disciplinam Cleri : hac enim magnam partem corrupta, non est mirum, si plebis mores declinavere in peius ; eâdem semel instaurata, non parum iam profeceritis ad christanae vitae decus vulgo revocandum. Equidem scimus in sacerdotibus vestris non deesse, qui recte vitam agant congruenterque sanctissimo muneri ; sed multos ita vivere, ut omnia sacerdotii officia contemnant, gravissime dolemus : eo magis quia non tantum prodesse exemplo suo boni, quantum nocere improbi solent. Nam quis persuadeat

imperitae multitudini, ut ob expectationem bonorum immortalium haec fluxa et caduca parvipendant, ut domitas habeant virtute cupiditates, ut fraterna caritate inter se diligant, quando qui duces aliis ad bene vivendum debent esse, vitae cursum tenent prorsus contrarium? Enimvero ferendum vobis diutius non est, tantam in domo Domini perturbationem ordinis insidere, cuius quidem similem nullus paterfamilias intra domesticos parietes toleraret. Admonent vos sacrorum statuta canonum; hortantur et urgent constitutiones illae Concilii Plenarii Americae Latinae, quas quidem numquam obliterari oportebit; stimulos addunt huius Apostolicae Sedis praescripta vel recentia: adeste igitur animis, et sine cunctatione, obsecramus, admoveite manus ad medendum. Omnino firmitate et constantia utamini opus est, sed tamen paterna semper caritate comite. Incredibilis enim vis inest in officiis caritatis ad flectendam animorum contumaciam; at siquando lenitatis indulgentiaeque viae nullum exitum habuerint, tum ne dubitetis iustam adhibere severitatem. Atque ad instaurandam Cleri vestri disciplinam magno usui illae erunt litterae, quibus Nostram *ad Clerum catholicum universum Exhortationem* haud ita pridem mandavimus; siquidem normam regulamque tradunt vitae sacerdotalis, atque ordine indicant quibus praesidiis clericos ad sanctimoniam instituti sui niti conveniat. Esto igitur curae vobis, ut eas litteras sacerdotes vestri omnes singuli habeant attenteque perlegere in animum inducant.—Interea vero, dum Cleri rationibus consulitis in praesens tempus, necesse est etiam, in futurum prospiciatis. Si vultis enim, uti debetis velle, ut istic Religioni meliora aliquando tempora illucescant, praecipua quaedam pars industriae vestrae insumenda scilicet est in sacram iuventutem, quae quidem spem ecclesiastici ordinis omnem continet. Quare dabit operam, ut vestra Seminaria talia existant, qualia Synodus Tridentina iussit, id est religionis doctrinaeque domicilia, in quibus adolescentes clerici rite ad sacerdotii officia et munia instituantur. In primis igitur, quod ad disciplinam morum attinet, gravis ea et austera, vobis instantibus, ibi dominetur; alumnique sacrorum iis virtutibus conformentur penitus, quae sacerdotis maxime sunt, pietate, castimonia, animarum sollicitudine, christianaque humilitate, quae ceterarum est fundamentum virtutum. De studiorum autem ratione, qualem in Seminariis vestris vigere oporteat, documentum ex iis potestis capere, quae Nos in universum praescripsimus. Tantum admonemus, ut in philosophiae ac theologiae doctrinis ducem et magistrum Thomam Aquinatem et habendum edicatis et



sequendum curetis: huius enim institutis exculti discipuli errores et fallacias recentiorum facilius cavebunt. Ac de litteris, plerumque negligi linguae latinae studium, minime gentium probamus. Nostis, quid hac super re sacrum Consilium studiis regundis nuper Episcopis universis mandarit, Nostro nomine. Vestrum erit igitur huic Nostrae praescriptioni diligenter curare, ut satisfiat. Denique memineritis, sapienter Tridentinos Patres constituisse, ut Seminariorum et disciplinae et rei oeconomicae tuendae duplex adesset *deputatorum commissio*, quarum altera ex binis canonicis aedis cathedralis, altera ex binis item canonicis atque binis de clero urbis episcopalis constaret. Quoniam hanc sancte inviolateque servari legem, permagni ad rectam Seminariorum administrationem regimenque interest, vos *commisiones* eiusmodi, sicubi non adsunt, quamprimum, uti vestrum officium requirit, instituetis.—Postremo, sinite inculcemus aurbus animisque vestris illam Apostoli gravissimam vocem: *nemini cito manus imposueris*. Nam, si, procuratis comparatisque rebus omnibus, quae ad educendos rite alumnos Cleri pertinent, tamen non cavebitis, ut ne aditum detis ad sacerdotium nisi dignis omnem operam vestram frustra fuisse putatote. Indignum est autem rudem esse aut non satis a doctrina instructum sacerdotem, qui erudire alios ad salutem debeat; longe vero indignius, qui apud populum magisterium exerceat christianarum virtutum, ipsum haerere in caeno vitiorum. Itaque admittere quemquam in sacros ordines, nisi intra Seminarii septa legitimum studiorum cursum cum laude diligentiae confecerit, scitote vobis non liciturum. Si quis vero, quamvis bene versatus in studiis, tamen, non admodum integris esse moribus videatur, hunc initiarii sacris, ipsi intelligitis grande nefas fore. Omnino enim praestat nullum alicubi adesse sacerdotem qui curam animarum gerat, quam adesse eiusmodi, qui vitae perversitate offendens, pestem ac perniciem christianae plebi, pro salute, paret. Haec Nos, memores Nostrarum partium, admonere vos habuimus. Relinquitur, ut vos, quae videtis esse vestri officii, ea naviter exsequamini. Id autem ut prospere eveniat, auspicem divini auxilii, tibi, Venerabilis Frater, tuis istis in episcopatu Collegis et Clero populoque vestro apostolicam benedictionem amantissime impertimus.

Datum Romae apud S. Petrum, die VIII. Decembris, in festo D. N. Mariae Immaculatae, MCMX., Pontificatus Nostri anno octavo.

PIUS PP. X.

## NOTICES OF BOOKS

THE LIFE OF JOHN HENRY CARDINAL NEWMAN. Based on his Private Journals and Correspondence. By Wilfrid Ward. 2 Vols. Longmans, Green & Co. 36s. net.

FROM the earliest days of the Church, and particularly since it became a great world organization, there have been differences of opinion amongst its most prominent defenders, currents and cross-currents of thought, advocates of this policy and of that, progressives and reactionaries, liberals and conservatives, all moving and acting within the constitutional boundaries of the divine institution, enjoying the liberty of the children of God, working for the most part with one aim, guided by the light of the great Councils, and controlled by the authority of the one supreme pastor. To-day these forces are at work as vigorously as ever ; and as long as they remain within the divinely constituted limits they are almost a necessity to the healthy life of the living organism in which they operate. Not that truth changes or that contraries can be true ; but the truth and the way are not always clear. The searchers and the wayfarers have often to grope their way, and they sometimes differ as to the direction and the path. Amongst what may be called the orthodox liberal school Mr. Wilfrid Ward, differing greatly from his father, holds a high place. In England, indeed, he is one of its worthiest representatives ; and on that account he was marked out as the most natural person to undertake this biography. He had many gifts, acquirements, and opportunities which qualified him in a more special way for the task ; but the greatest gift of all was sympathy with his subject, with the tone of mind, the theories of knowledge, the aims, the struggles, and the methods of the great man whose portrait he undertook to paint and hand down to future generations : and it is satisfactory to be able to say that on the whole he may be warmly congratulated on the success of his work.

Cardinal Newman has been revealed to us in these pages just as he was. We get his own opinion of himself, of his friends, and of his critics : and we get freely enough also the opinions of his opponents, his censurers, his enemies. Those who loved and

venerated the name of Newman before get no cause in these volumes to reconsider their attitude towards him ; rather they will find many things to confirm and perpetuate it : for whilst all his great intellectual gifts, his grand imagination, his noble style, his deep insight into the nature of men, their thoughts and their movements, his power of vivifying and bringing out into the white light of the sun the vast questions of history, theology, and science that lay imbedded in the inheritance of the Church, become more clearly evident in these volumes, they also show forth his extreme sensibility, his tenderness of heart, his humane sympathies, his humour, his kindliness, his splendid vitality. And whilst they reveal the noble steadfastness and the singleness of purpose with which he followed the ' kindly light ' that shone before him, heedless of obstacles and unmindful of wind or weather, they also give us a glimpse into his moments of trial and hardship, his suffering, his humiliation, his weariness. Finally, they remove the veil that surrounded his ultimate triumph and let us see the mixture of human and supernatural joy with which it was accompanied. All this is done in a style of rare distinction, with vast knowledge of men and movements, of things theological, philosophical, political, and social, such as no other writer amongst the Catholic laity of our time could command.

The part of the work with which we have most fault to find both as regards Dr. Newman and his biographer is that which relates to Ireland, and particularly to the connexion of the eminent Oratorian with the Catholic University. The Irish Bishops paid Dr. Newman the highest compliment in their power by asking him to come and take charge of the Catholic University they had determined to set up after the Synod of Thurles with the sanction of the Holy See. They wished for the prestige of his name, his great literary reputation, his well-known spiritual and intellectual influence on all those who came within his sphere : but they never at any time dreamt of handing over the institution to him to do with as he pleased. Yet that was apparently what he expected. He accuses them, and particularly Cardinal Cullen, of wanting to make it nothing more than a lay seminary, to keep its students in glass houses, and to keep them from a knowledge of all modern thought, of things in literature, art, and science, which men who have to make their way in the world must know all about. Their professors were to be merely 'scrubs,' and the whole institution was to be 'priest-ridden.' This is a



view that seems to be adopted by the Cardinal's biographer as well as by himself. Yet surely it is as clear a misrepresentation as any that was ever made against Cardinal Newman himself. The fact is that Dr. Newman came to Ireland, like a great many British Chief Secretaries, full of the idea that the Irish people did not know what was good for them, and that if they wished to make any advance in this particular department they should leave everything that concerned them in his own hands. It was of no account that he himself, pre-eminent though he was in his own high sphere, had no capacity for practical business, no experience, no taste, no time, for the drudgery of bargaining about houses and leases, and drainage and furniture. Yet he would insist on meddling in such matters. And he was mortally offended that they were not left to him; and when he did go beyond his commission and purchased a house on his own account for a medical school, he was surprised that Dr. MacHale objected. The province of the Bishops, according to his conception, was to find the money, and then to hand it over for expenditure to him and a committee of laymen selected from a class that gave the University no countenance, no help, nothing but the cold shoulder or direct and unceasing opposition. The idea was preposterous. We should like to know in what country it would be accepted. Certainly not in England. Then he complained that he did not get a free hand in the appointment of the professors and officials. Why should he? Where does the head of a University or a University College get a free hand? Has he a free hand in Louvain or in Washington? Does he get it in Oxford or Cambridge? A voice, no doubt, and a strong one, but a free hand is another thing. Dr. Newman got a splendid opportunity of exercising his great personal gifts as the head of the institution, and could have wielded great influence and done immense good if he had confined himself to the particular work for which nature and Providence seemed to have marked him out; instead of that he indulges in the most childish complaints that these practical matters are kept in the hands of those who were legally responsible for them, and with great trouble and sacrifice were finding, through their priests and the faithful, the wherewithal to pay for them. The idea that Dr. Taylor and Dr. Leahy were appointed by Dr. Cullen as a 'safeguard' and 'security' against the Rector is surely as paltry a suggestion as anything that was ever charged against Dr. Newman himself.

Dr. Newman complained of various appointments of this kind, as if they were made against him. He wished to make the University chiefly English, whilst the Irish people were to pay for it. He wished to bring over Englishmen of whom the Irish Bishops knew very little, and if he was to appoint any Irishmen it was to be those who belonged to the section most hostile to the Bishops. How could anything succeed on such lines? It was well, however, that things were not much worse; for if Dr. Newman had got his way, without any check or control, in the appointments what would have taken place? Heaven knows. But if we are to judge by the sympathies of Dr. Newman immediately after he left Dublin, who are the prominent scholars in whom he placed his trust and with whom he was in the closest agreement? Sir John Acton, Dr. Döllinger, and Father Gratry. This becomes plain in the *Rambler* documents, and the story of the *Home and Foreign Review*. No wonder Drs. Cullen and MacHale did not want to have these gentlemen, or men of their school, indoctrinating the youth of Ireland at the expense of the Irish clergy and faithful. Yet had Newman got an absolutely free hand that might very easily have happened. Döllinger died outside the Church; Gratry was rescued on his death-bed by the exertions of Mgr. Dupanloup; and Acton, the great *birbonaccio*, as Cardinal Barnabo called him, after bullying and brow-beating Popes, Bishops, and clergy all his life, condescended, nevertheless, to accept their ministrations. This was the spirit that Cardinal Cullen did not see his way to encourage or to tax the poor Irish people to enthroned in Dr. Newman's University. Not that there was any distrust of Newman himself. There never was. No Irishman ever distrusted him personally: but they distrusted profoundly and with good reason many of the scholars in whom he seemed to have placed implicit confidence. Yet in spite of all these difficulties they gave him his way to a great extent, and after some discussion and reservations accepted his final list of nominations freely enough—a list that but for the watchful scrutiny of the Bishops would probably have been very different. The insinuations in Mr. Ward's narrative that the laity were excluded from all voice in the government of the University is not justified. In the committee formed at the Synod of Thurles there were Bishops, priests, and laymen, and amongst the latter were Mr. O'Ferrall, Mr. O'Reilly, and Mr. Bianconi. If there were not more of them and if they did not persevere in the work it was their

own fault. With the Rector so sensitive about his prerogatives and the Bishops so hard pressed to find the money to work the machine it was no wonder that there should be friction and muddle in the finances. Dr. Newman was not an easy man to do business with. It was a case of divided authority and incompatibility of character. As for the Irish bishopric which was to put Dr. Newman on a footing of equality with the Irish Bishops, and about which there was so much grumbling ever afterwards, it was an idea of Cardinal Wiseman. Those who were most concerned were not consulted about the proposal, and did not see why it should be imposed upon them by others.

With all the complaints of Dr. Cullen's narrowness when Dr. Newman was hard pressed by his own countrymen, University men many of them; when Mgr. Talbot, in a letter to Cardinal Manning from the Vatican Palace, spoke of the Catholic laity of England as showing the 'cloven foot,' and described Newman as 'the most dangerous man in England'; when Herbert Vaughan, W. G. Ward, and others were on the warpath against him, he finds his best friend and ablest defender in the same Cardinal Cullen to whom Pius IX. wrote asking for his candid and sincere opinion of Dr. Newman's orthodoxy. His Roman training and want of experience in English Universities proved no hindrance to him there.

Apart from this phase of the late Cardinal's life we have followed the narrative with sympathy and admiration. For whatever may be the small weaknesses of the man, nobody will deny that there was something great, noble, and fine in his character. If he was usually on the liberal side he was also invariably on the side of authority and obedience when matters came to a crisis. Others might not be as ready as he was to put on the brake, and that is one of the dangers that always stands in the path of a liberal Churchman; but Newman had grasped the principle of authority as few that came from outside have ever grasped it, and held to it tenaciously throughout his life.

We regret to notice that no mention is made of the last public controversy, on the important subject of the inspiration of Scripture, in which the Cardinal was engaged, and in which Dr. Healy, the present Archbishop of Tuam, took a prominent part. It occurred about 1883. Possibly the author thought the subject one of which he had better steer clear.

On all such questions as mixed education, the political influence of the Church, temporal power, liberalism in theology,



ecclesiastical policy and government, the author leaves upon us the impression that he is always on the side of those who are inclined to take abundant liberties with Episcopal and Papal teaching, but at the same time we think that, like Newman, he has grasped the principle of authority, and we are sure that he is ready to defend it in the last resort as vigorously as ever Newman did. When all is said he has placed Catholics under a deep obligation for this beautiful and inspiring biography, and for many other services to the Church in literature and in public life.

J. F. H.

SAINT PAUL V., POPE OF THE HOLY ROSARY. By C. M. Antony. Four Illustrations. London: Longmans, Green & Co. 1911.

THE series known as the 'Friar Saints,' which is being brought out under the editorship of Father Osmund, O.F.M., Father Bede Jarrett, O.P., and C. M. Antony, has done much already to popularize the story of the great saints given to the Church by the Franciscan and Dominican Orders. Six volumes have appeared dealing with St. Thomas, St. Bonaventure, St. Vincent Ferrer, St. Antony of Padua, St. Pius V., and St. John Capistran. Biographies of St. Antoninus of Florence, St. Bernardine of Siena, St. Raymond of Pennafort, St. Leonard of Port-Maurice, St. Louis Bertrand, and St. Peter of Alcantara are in course of preparation.

The future Pius V. was born in 1504, and at an early age he joined the Dominicans. His exceptional abilities, his earnest piety, and his fearlessness where the interests of religion were at stake attracted the attention of his contemporaries as a man fitted to play a leading part in the great struggle between the Church and the heretical sects. In Germany, in Switzerland, in Holland, France, and England, the Lutheran or Calvinist doctrines were gaining ground, and even Italy and Austria were in great danger. Heretical pamphlets were being smuggled constantly into Italy from Switzerland, and were being scattered broadcast among the peasantry. Father Michael was selected to fill the office of Inquisitor at Cesmo, then one of the most dangerous situations to which any ecclesiastic could be appointed, and in spite of the opposition of the Vicar-Capitular and the Chapter of Cesmo he did his duty even at the risk of his life.

Later on he was appointed Cardinal, under the title of Cardinal Aleandrin. As Cardinal he kept strictly to the simple life of the friar, and showed his devotion to the cause of religion by his outspoken criticisms of several measures proposed by Pius IV. to the College of Cardinals. On the death of Pius IV. he was elected and took the title of Pius V. Though his health was poor he devoted himself to the two great objects dear to his heart: the repression of heresy and the overthrow of the power of the Turks. In pursuance of the former he launched the Bull of excommunication and deposition against Elizabeth of England in February, 1570, and in pursuance of the latter he organized the crusade which ended so successfully in the battle of Lepanto. In this crusade he depended more upon the efficacy of prayer than upon the sword, and he ordered specially that the Rosary should be recited everywhere throughout Christendom for the success of the forces fighting under the leadership of Don Juan of Austria. It was in honour of the great victory of Lepanto that the feast of the Holy Rosary was appointed to be observed on the first Sunday in October by his successor Gregory XIII. He was canonized as a saint by Pope Clement XI. on the Feast of St. Dominic, 1710.

The fascinating story of his life, as told in this volume, is likely to remove many misunderstandings, and to conduce to a fairer appreciation of the character of Pius V., even amongst men who are not inclined to agree with his aims and policies.

J. MACC.

THE EVE OF CATHOLIC EMANCIPATION. By Mgr. Bernard Ward, F.R.Hist.S. In three Volumes. London: Longmans, Green & Co. 1911.

THE English Catholics are fortunate in their historian. These two volumes (a third is to follow) bring us from the point where Mgr. Ward left us at the end of his *Dawn of the Catholic Revival*, and leave us, or will leave us, at the 'Eve of Emancipation.' The author covers a wide field. He deals with a great variety of subjects, touches on very delicate matters as between English and Irish Catholics, between English Catholics and one another, between both English and Irish Catholics and the Holy See. Everywhere the tone is impartial, judicious, and dignified. Irish Catholics in particular have reason to be grateful to the author for the delicate and kindly manner in which he deals with their

affairs. It is so easy to indulge in language that leads to misunderstanding and ill-feeling in such matters that we cannot but express our special thanks to the author of these volumes for the kind and friendly tone, the evidence of a gentle nature and true Catholic spirit, in which he speaks of our Bishops, our venerable Church, and the struggles of our forefathers for the Catholic faith. Indeed he goes so far as to dedicate to us these splendid volumes in the following words:—

‘To—Our Brethren of Catholic Ireland—Whose faith, like that of the Romans of old,—Is spoken of throughout the entire world,—In the hope that the story of our common fight—for the freedom of Religion—May prove to us a fresh bond of union,—Ensuring in the future that cordial co-operation,—A pledge of which we discern in the past.’

In these words of friendship and kindness addressed to us by so worthy a representative of the Catholics of England a warm and ready response is sure to be made. Indeed, Irish Catholics have always felt and professed the most sincere regard, respect, and affection for their brethren in England and Scotland. They have sympathized with them in their trials and difficulties. They have fought with them side by side. They have watched the splendid struggle and the great sacrifices they have made to maintain their schools and to assert their civil rights. They have admired the noble churches they have erected in London, Liverpool, Birmingham, Glasgow, and all over Britain. Far from wishing to take in any way from their credit Irish Catholics are happy to proclaim it and to congratulate them upon it. It is pleasant to find these dispositions so cordially reciprocated as they are in the works of Mgr. Ward. It makes up to a great extent for the irresponsible flippancies of smaller minds.

Students of the ‘Veto’ question cannot do without these two volumes. Here one gets to the heart of the question, and sees all the influences that were at work on one side and the other. From the ordeal of the publication of original documents it is satisfactory that the Irish Bishops come out so well. We have stated more than once already that we think they owe no apology to anyone for their conduct in all the transactions connected with this matter.

We confess that Bishop Milner appears to us in these pages in a totally different light from that in which we had hitherto regarded him. He was generally on the right side from the doctrinal point of view; but he was violent, harsh, and extreme



in his methods. We do not know that Mgr. Ward has been quite fair to him. He has certainly damaged his reputation considerably. He never misses an opportunity of putting the case strongly against him. One sees that he dislikes the type of man and his style altogether ; but he also gives good colour for his charges against him. Milner's pettiness towards Lingard astonished us. His writing to such an agent as Sir John Coxe Hippisley to secure him the bishopric is an unpleasant revelation. His early attitude towards the 'Veto' detracts very considerably from his later. One who had changed so completely might at least have been more moderate in his discussion of the subject. His hand seems to have been against his countrymen, clerical as well as lay, to an extent that naturally causes resentment. On the other hand, the author almost invariably speaks of Milner's chief antagonist as 'poor Charles Butler.' This, however, does not imply approval of Butler as against Milner, but simply shows Mgr. Ward felt that a different way of dealing with a well-intentioned and able man would have had different results.

Some of Mgr. Ward's sketches of individuals are admirable. Father Gandolphy, Charles O'Connor, Dr. Ferris of the Irish College in Paris, the Abbé de Trevaux, stand out before us in vivid colours. Had one lived in the days of Dr. Poynter he could scarcely have known him as well as we do who read the account of him given here.

The style of the work is fascinating. It draws one along from chapter to chapter with real *entrain*. We look forward with genuine pleasure to the third volume, and meanwhile recommended these two to all our readers. They throw great light on the history of the times, political, social, and literary as well as religious. They are very important from the standpoint of the Irish Church, and will prove indispensable to anyone who wishes to understand thoroughly the religious conditions and movements of the times with which they deal.

J. F. H.

RUDIMENTA LINGUAE HEBRAICAE, scribesrunt Dr. Chr. Herm. Vosen et Dr. Fr. Kaulen. Nona editio quam recognovit et auxit Prof. Jacobus Schumacher. Friburgi Brisgoviae : Herder. 1911.

THE appearance of a ninth edition of this well-known textbook is a striking proof of its great popularity. Professor

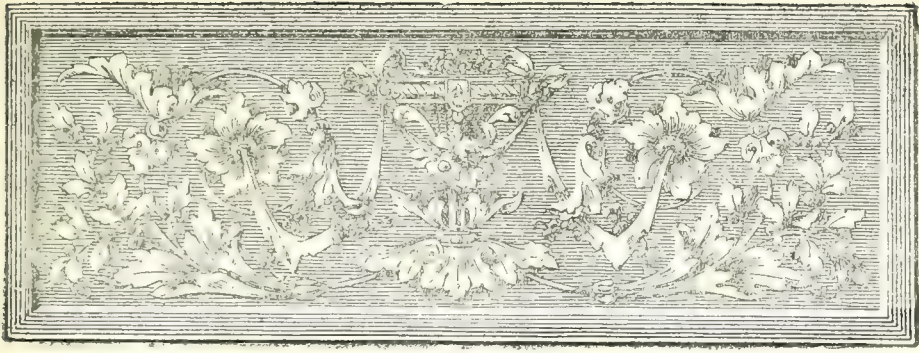
Schumacher has greatly increased the practical value of the little book by bringing it more into line with the modern requirements of language-teaching. He has realized that the sentence rather than the word is the unit of language, and that students get a grasp of a language much more quickly by being trained to put short sentences together in the language from the start. The practical exercises at the end of the book supply excellent material for translation into and out of Hebrew. The grammatical rules are stated more fully and clearly than in previous editions. The seminary student who is not deeply interested in comparative philology or historical grammar will find in this ninth edition of Vosen-Kaulen a reasonably complete and reliable introduction to the study of the Masoretic text.

P. B.

L'ÉGLISE DE PARIS ET LA RÉVOLUTION. Par P. Pisani.  
Vol. IV. (1799-1802). Paris: Picard et Fils. 1911.

THIS is the last of the four volumes published by M. Pisani on the history of the Church in Paris during the Revolution. It opens with a picture of the state of affairs in the capital of France the year before Napoleon had seized the supreme power and before any proposals for a Concordat had been submitted to the Pope. The whole story of the negotiations between Pius VII. and Napoleon leading up to the Concordat, and of the efforts made by the 'constitutional' Bishops of France to prevent a reconciliation, is told at length. The results of the working of the Concordat and the administration of the individual churches in Paris are dealt with in the closing chapters of the volume. The work which has been completed by the publication of this volume is of the utmost importance, and cannot be neglected by anyone interested in the French Revolution from the religious point of view.

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## AFRICAN NATIVE PRAYERS

**I**N the highlands of British East Africa there are found dwelling two warrior tribes called the Nandi and the Masai. Both are classed by ethnologists as Nilotic, that is, they speak languages akin to some others spoken a thousand miles farther north along the Nile. The Nandi are chiefly agricultural, though they possess a considerable number of live stock, while the Masai are wholly pastoral. In former years both tribes kept up what might be termed a standing army of warriors, ready at a moment's notice to defend their flocks and homes; and in consequence both preserved their independence intact until recently absorbed in the Protectorate. In some respects their manners and customs are widely dissimilar, but they agree in at least one particular, viz., that the people of both tribes believe in the existence of a Supreme Being, and, moreover, make use of a set form of prayers to him on various occasions. In the following pages we shall briefly consider some of the native prayers used by (1) the Nandi and (2) the Masai.

### I.—THE NANDI

The tribe called the Nandi, or more correctly the Nandiek, dwell on the Nandi plateau, one of the most beautiful and fertile districts in East Africa, situated about 500 miles inland from the coast. The plateau, which has an average



altitude of about 7,500 feet above sea-level, is well-watered, hilly, and on the east and west bordered by dense forest. Though cut by the equator the days are usually cool and cloudy when not wet, while the nights are, at certain seasons, bitterly cold. On account of the heavy rainfall and temperate climate the vegetation is most luxuriant; wild clover may be seen among the grass on the open grazing ground; in the shady valleys maidenhair fern and evergreen shrubs are found in profusion. Indeed, so verdant does the land appear all the year round that the passing traveller, gazing on the natural beauty of the scenery presented on all sides, might almost imagine he was visiting parts of Ireland instead of Equatorial Africa.

The Nandi believe in, and give a kind of worship to, a Supreme Being called 'Asista'—a word composed of the noun *Asis* and the article *ta*, lit. 'the God.' This being is said to have created man and beast; he dwells above in the sky, and all things in the world belong to him. The same name, *Asista*, is also applied to the sun, but the language used in their prayers when addressing *Asista* has more reference to him as a divine personality than as a 'Sun-God.' The elders of the tribe in particular are supposed to pray to him every morning and evening; additional supplications are addressed to him on special occasions, such as when the warriors are away on a raid, after saving the harvest, or in time of sickness, drought, or cattle disease.

These prayers are chiefly simple requests in the form, 'God [*Asis*] give us health, offspring, cattle, milk, etc.'; 'God [*Asis*] guard our children and cattle.' They certainly imply that, however vague the personality of *Asis* may be he takes a benevolent interest in the daily life of the Nandi people. It is noticeable that when his name is invoked, whether by young or old, it is always with reverence. On their part, in acknowledgment of his power and as the giver of all good things, offerings and sacrifices are at stated times made to him. For example, every time a cow is milked or an ox bled a few drops of milk from each teat, or a few drops of blood, are allowed to fall on the ground as an

offering to Asista, and the spirits of their ancestors. The first fruits of the harvest are also offered by way of thanksgiving.

In addition to Asista the Nandi have a strong belief in the existence of ancestral spirits, whom they call *Olik*. According to their religious system the spirits of departed ancestors and adult relatives are held to be responsible for sickness and death; they are appealed to for protection, and, from time to time, propitiated by offerings of milk, beer, and food. The human soul is considered to be embodied in a person's shadow, and when adults die it survives, though the souls of children are believed to perish entirely. The spirits of the departed are supposed to live under the earth and are rich or poor in their spirit-world in proportion as they were so while in their human existence. Those of them who had great possessions on earth are equally blessed when they die; while the spirits of poor people have as hard a time of it after death as they had during life. The Nandi tell a version of the story about the man who went to the country of the dead, but was sent back because he had arrived before his time. They say that years ago a young man fell into a river and was drowned, after which his soul went to the land where the spirits dwell. When he opened his eyes he found himself in a strange country where there were hills, streams, plantations, and oxen, just as on earth. The spirits of his ancestors came to him and said: 'Young man, your time has not yet come when you should join us. You are still much too poor. Go back to the earth and get cattle.' With that they struck the ground and the man regained consciousness, to wake up near the place where he had fallen into the river. The Mormons are said to have much the same heathen belief as regards wealth in the next world, the only difference being that in their case they refer to wives instead of cattle. In connexion with the following prayers a short account of some of the manners and customs of the people is given.

(1) First in order of time is the prayer used by the Nandi at what may be called the christening of a child. After the birth of a child the mother remains in her house

for three days. On the fourth day a feast is prepared, to which only women are invited, and which is called the 'Ki-inget Asis' (that God may be awakened). A short time before the guests arrive the midwife shaves the mother's head and throws away the hair towards the rising sun. For one month after the birth the mother is considered unclean, and may not touch food with her hands; she uses a wooden spoon made from a certain tree to feed herself with; her house being washed out frequently with water and cow-dung. At the end of this period she proceeds to the nearest river and washes her hands and arms; after this she returns home and resumes her ordinary daily work. Four months after the birth another feast is held at which an ox or goat is slaughtered—a male animal for a boy and female animal for a girl. During this feast the mother and child are anointed with milk—which is regarded as a sacred thing—by one of the elders of the clan. The flesh of the animal is roasted and eaten, after which the child's face is washed in the undigested food found in the stomach. When this has been done the elder prays as follows, the literal translation of the words used being given:—

O God! give us health.

O God! protect us.

Our spirits! protect for us this child.

(2) All Nandi males have the two middle incisors of the lower jaw extracted as soon as the milk teeth have been replaced by the permanent set. Two reasons are given for this strange custom: one, based on the supposition that the soul leaves the body during sleep, so that the soul may leave and return to the body through the gap caused by the extraction of the middle incisor teeth of the lower jaw. On this account, they say, a person must not be awakened roughly for fear of the soul not finding its way back again, and thus the person would die. Another reason is in order to enable a person suffering from tetanus to be fed. A more probable reason would be that it is done as a tribal mark and carries with it some religious meaning. The maternal



uncle, who is held by them in high respect, is always consulted before a boy's teeth are extracted or the lobes of his ears pierced. It is also usual for a father to give his son at this time a cow, the offspring of which will go later on to help to purchase his future wife. The operation of forcing out the teeth is performed by means of an arrow used for bleeding cattle and an instrument like an awl. The youth must throw the teeth away towards the rising sun and say :—

O God ! take the brown teeth,  
O God ! give me white ones,  
So that I may drink cow's milk.

(3) When the erection of a new house is commenced, or, as one would say, at the laying of the foundation-stone, there is a solemn inaugural ceremony. The houses are circular in shape, and are constructed of wattle and mud mixed with cow-dung ; the walls are about four feet high and the conical grass roof is supported by a central pole. All work in connexion with the building is performed by the men until the skeleton is ready, when the work is taken over by the women, who finish it. The posts and poles are cut in the woods by the men during the waning of the moon. There are two rooms in each hut—one occupied by the husband, his wife and small children, the other by the calves, sheep, and goats. The house of a thief is destroyed by way of punishment. In case a house has been struck by lightning and left standing the medicine-man of a certain clan is sent for to burn it down. The central pole of the house always rises about two feet above the roof and is bound round on top with a tuft of grass. When the head of a family dies one of his brothers or paternal cousins climbs on to the roof of the house in the last quarter of the moon and breaks off the tuft of grass. The widow mourns for a whole year, other persons from ten days to a month ; and as long as a widow is in mourning no warrior may enter her house. At the building of the house the elders of the family pour milk and put some grain and salt into the hole

which has been prepared for the reception of the central pole, and say :—

O God ! give us health.  
O God ! give us milk.  
O God ! give us power.  
O God ! give us eleusine grain.  
O God ! give us everything which is good.  
O God ! guard for us our children and cattle.

(4) In time of war there are many occasions when prayers are said. Before going on a raid the warriors of each district hold a feast and war-dance on the top of a hill or sometimes in a large open plain. A huge fire is made and an erection like the door of a cattle kraal is built near the fire. During the evolutions of the dance, as the warriors file past through this door, the old men who stand by the door-posts take a little milk or beer in their mouths, spit it at them and sing as follows :—

O God ! give us health.  
O God ! give us cattle.  
O God ! give us offspring of men and cattle.

(5) When the warriors have gone to the wars their mothers tie four knots in their belts, and every morning go outside their huts soon after sunrise, and after spitting towards the sun, cry out aloud : ‘Asis ! kōnech sapon’ (O God ! give us health). The fathers also meet regularly, and before drinking their beer each man takes his calabash of beer in his hand, sprinkles some on the ground and on the walls of the hut, after which all sing :—

O God ! guard for us our children,  
That we may greet them ; that we may greet them.  
Our spirits ! we have prayed to you.  
Regard this beer and give us health.

(6) While the warriors are absent, the old men pay visits frequently to the chief medicine-man (called the *Orkoiyot*), to learn how the expedition is faring. This seer consults his oracle and gives guarded replies. During the expedition nobody at home may mention the warriors by

name; they must be referred to as birds. Should the children forget themselves and mention the name of one of the absentees, they are at once rebuked by their mothers, who say: 'Don't talk of the birds who are in the heavens.' Every morning, until their return, an elder, who accompanies the party, must spit towards the rising sun and say:—  
'O God! give us milk to drink.'

(7) In case the expedition has succeeded a thank-offering is made, a war-dance held at which the warriors wear their full war-dress, and the cattle taken distributed. The chief medicine-man, the lesser wizards, and the rain-makers receive a share, as well as the relations of warriors who fell during the fight. When the cattle are distributed, they are taken by each man to their future homes. The first night they are not allowed inside the cattle kraal, but are tethered outside. On the following day the elders make a bonfire near the entrance to the kraal, while milk and beer are poured on the ground, to the accompaniment of the following song, which is taken up and repeated again and again by all present:—

The raided cattle, oh! The raided cattle, oh!

The raided cattle, oh! God has given us health!

(8) If the expedition has not been successful and a number of warriors have been killed, the survivors must all go to a river on their return and bathe. They then hold a *kambakta*, or warriors' dance, not of joy this time but of sorrow, as it is called 'the waters are beaten.' In the prayer, said on this occasion the words 'oiyo,' equivalent to 'we admit ourselves beaten,' and 'emuro,' equivalent to 'we ask for peace,' are used. After the dance, at which the women wail and cry at intervals, an old man stands amongst the seated warriors, and prays:—

O God! we have said 'oiyo.'

We have prayed 'emuro.'

(9) When cattle have been killed by lightning a ceremony called 'the sprinkling of the cattle' takes place. A procession is formed and the remaining herds are driven to the



nearest river, where the warriors are drawn up in two lines along the banks, whilst the unmarried girls stand in front of them in the water. The cattle are driven between the girls, and each cow is sprinkled with water as it passes. After this the girls drive the cattle home, whilst the men sit down near the river. An old man then rises and recites the following lines, all present repeating them after him :—

O God ! guard for us these [cattle] here.  
We pray thee, guard for us these [cattle] here.

(10) Should disease break out in a herd, a large bonfire is made of the wood of certain trees and shrubs. As soon as there is a good blaze, the sick herd is driven to the fire, where the animals remain standing, whilst a pregnant sheep is brought near them. The sheep is anointed with milk by an elder, after which two men belonging to clans that may intermarry seize it and strangle it. The intestines are examined, and if it is found that the occasion is propitious, the meat is roasted and eaten, whilst finger-rings are made of the skin and worn by the cattle-owners. If the result of the inspection of the entrails is unsatisfactory, another pregnant sheep has to be slaughtered. After the meat has been roasted and eaten, the herd is driven round the fire, and milk is poured on each beast. Before the gathering separates the following prayer is recited by all present :—

O God ! we have prayed to thee.  
Guard for us these [cattle] here.

(11) In common with the people of other tribes the Nandi have much faith in the power of their rain-makers. They belong to no special clan, though in most cases the office is hereditary, and several of them come from the neighbouring country of Kamasia. It seems to be a most lucrative occupation, and successful rain-makers are usually very wealthy, as they receive large presents of grain when the crops are harvested, and of oxen after a raid. When a rain-maker is procuring rain he may not wash his hands nor drink water, and he must not sleep on the hide of an ox

which has been recently slaughtered. The rain medicine is a powder made from the roots of certain trees found in the forest, and the rain is supposed to be produced by putting this powder or even the roots into water. Individuals purchase this medicine from the makers and must keep it dry until they need rain at the time of the sowing of their crops. But when there has been a prolonged drought, and the rain has refused to come, and famine is threatened, the people accuse the rain-maker of having failed to keep his promise, and he is sometimes either killed, or is compelled to flee for his life. The old men then collect together and take a black sheep with them to the river, in order to make an appeal to Asis (God). Having tied a fur cloak on to the sheep's back, they push it into the water, after which they take milk and beer into their mouths which they spit out in the direction of the rising sun. When the sheep has scrambled out of the water and has shaken itself, they all sing the following prayer :—

O God ! we have prayed to thee.

Give us rain. Look at these, beer and milk.

We are suffering, like women labouring with child ;

Guard for us our pregnant females of man and ox.

(12) It may be observed that amongst them sneezing and spitting are regarded with special significance, so much so that the latter has almost attained the dignity of a sacramental act. Spitting is principally used to bring good luck or to avert ill luck ; also as a form of blessing, in making agreements, and to express astonishment at anything phenomenal. If a man tells a lie or says anything that is wrong, he spits. He also spits when he visits a sick person, when he prays, when he smells anything obnoxious, when he has had a bad dream, when he bleeds his cattle, or takes home a beehive, when he sees his totem animal, a chameleon or other strange creature, when he eats game, when he is startled, when he takes anything from a smith's hand or touches a newly-made earthen cooking-pot, and when he hears the name of a dead person mentioned.

Formerly it was customary to spit whenever a person was seen dressed in cloth, and to the present day most Nandi spit when they meet a European, out of respect ; though they have long since discovered that it is dangerous to spit at a white man, since the latter, not knowing the custom, is apt to resent the act. When the new moon is seen, when shooting-stars or a comet are visible, or when there is an eclipse of the sun or moon, they spit and pray for good luck. As the Nandi believe that certain persons have the evil eye, and have the power of causing children and calves to fall ill and pregnant women and cows to abort, they compel a man or women having such a reputation to spit at a person or animal approaching, in order to prevent harm. Old people and warriors often spit on children when they greet them, by way of blessing ; and old men spit in their hands before shaking hands with warriors. A dying father, uncle, or elder will spit in a boy's hand when the latter comes to bid him farewell. At peace ceremonies, and when marriages are arranged, both parties spit to ensure the agreement being propitious. All Nandi boys, after their circumcision, must be up before daybreak every morning, and go outside their huts to spit towards the rising sun. When cattle, grain, or household utensils are sold, the seller spits after payment has been made for good luck and to show that the sale has been completed. When a person sneezes those present say : ' May God be good to thee.' The reply is : ' He is good.'

(13) A very interesting custom observed by these people is what may be styled 'a harvest thanksgiving.' There seems to be in it at least some resemblance to the ancient law of offering the first fruits to God. The ceremony is held during the ripening of the eleusine grain, that is, about the month of September or October. At this time the mother of a family who has sown the corn goes with her daughters into the cornfields and makes a bonfire of the branches and leaves of certain trees. Some of the eleusine grain is then plucked, and whilst one grain is fixed in their necklaces, another one is chewed and rubbed by each woman and girl on her forehead, throat, and breast. No joy is shown



by the women-folk on this occasion, and they sorrowfully cut a basketful of the corn which they take home with them and place in the loft to dry. As the ceiling is of wickerwork, a good deal of the grain drops through the cracks, and no attempt is made to prevent it from falling into the fire, as it is supposed when it explodes that the spirits of the deceased are accepting it. A few days later porridge made from the new grain is served with milk at the evening meal, and all the members of the family take some of the food and plaster it on the walls and roofs of the huts. They also put a little in their mouths and spit it out towards the east on the outside of their huts. The head of the family then holds some of the grain in his hand, and offers up the following prayer, everybody present repeating the words after him :—

O God ! give us health.

And strength, may it be given to us.

And milk, may it be given to us.

If any man eats this [corn] may he like it.

And if a pregnant woman eats it, may she like it.

(14) The commonest form of prayer, which is supposed to be recited by all adult Nandi twice a day, but which is more particularly used by the old men when they rise in the morning, especially if they have had a bad dream, is addressed to both Asista (God) and the spirits of deceased ancestors. This prayer, like most of the others, is naturally of a simple character; still it contains the germ of truth inasmuch as it acknowledges the existence of an all-powerful beneficent being. The attitude assumed when saying this prayer is a sitting one, with the arms crossed so that the elbows rest in the palms of the hands. It is as follows :—

Asis ! Kaasain tukua lakōk ak tuka ;

Kaamusin korirun ak lakat.

Asis ! Kaasomin irue ak iwendi.

Asis ! Kaasomin amatiile 'kaanget.'

Olik-chok ! amu kiopeku, amoolen ;

'Kiparok chii,' otukwech chemii parak.

A free translation of this prayer is the following :—

O God ! do thou thine ear incline ;  
Protect my children and my kine.  
E'en if thou'rt weary, still forbear  
And hearken to my constant prayer.  
When shrouded 'neath the cloak of night  
Thy face lies hidden from our sight ;  
And when again at break of day  
Thine orb appears, to thee I pray.  
Dread shades of our departed sires !  
Ye who can make or mar desires ;  
Slain by no mortal hand, ye dwell  
Beneath the earth ; oh, guard us well.

## II.—THE MASAI

The tribe called the Masai is perhaps the most important as it is the best known of all those in East Africa. At any rate it was the one most feared, for long before the establishment of a Protectorate in the country news of the prowess of the Masai warriors, with their six-foot spears and oblong leathern shields, had reached Europe. The tribe occupied until a few years ago the whole of the Great Rift Valley, and the plains, extending from Lake Baringo on the north to Mpapua on the south, in German territory. They are a pastoral people, except a small section, but are no longer nomadic, as the exigencies of colonization by white settlers have necessitated the placing of the Masai in reserves : the northern one on the Laikipia Plateau, north-east of Nandiland, and the southern south of the Uganda railway, near Nairobi. They possess enormous herds of cattle and flocks of sheep, and though they still keep up their military organization they have so far loyally adhered to the treaty made with the administration when they withdrew from their former grazing grounds.

The Masai represent, most probably, an early mixture of the Nilotic negro and some Hamitic tribe of north-east Africa. That the tribe drifted down from the direction of Galaland is fairly well established, but there is absolutely nothing to show with certainty when they moved south-

wards. That they have been for a long time in their beloved Masailand is admitted ; and, being without written records or monuments of any kind, have lost all remembrance, except mythical, of their origin. A German writer, Merker, regards the Masai as belonging to the same stock as the ancient Hebrews, and quotes a number of their traditions respecting the Creation, Deluge, Decalogue, etc., which have a resemblance to the Biblical and Babylonian versions of primitive history. It is at least possible their legends contain some elements of truths borrowed from Hebrew sources. One thing about the Masai is remarkable, and has been observed by all travellers, namely, that many of them, of both sexes, have a strikingly Hebrew cast of features. The Jewish nose can be seen almost as frequently on Laikipia as in Jerusalem, and this is not the case with many other African tribes. Hence it may be allowable to entertain the conjecture that the Masai, coming originally from the north-east, and possibly at one time in touch with tribes influenced by ancient Egypt, Arabia, or Palestine, may conceivably represent not only an improvement of the primeval African stock but a debasement of some Asian race. In common with the Nandi and a few other tribes, the rite of circumcision is practised amongst them, and the ceremony for the whole country takes place about every seven and a half years. It is regarded as the transition stage from boyhood to manhood, and there is little doubt but that it has also a religious signification. Milk and grass are looked upon as sacred things, or at least as the most precious gifts of God—the one supports themselves and the other their cattle ; hence on principle they do not cultivate the soil as they would be killing the grass, nor boil the milk as it would be a desecration.

The male members of the tribe are divided into boys, warriors, and married men—named, respectively, in the singular, *lyoni*, *murani*, and *moruo*. They are further divided into what are called ‘ages’ ; that is, all those who are circumcised at the same time are said to belong to that ‘age’ or period ; the following ‘age’ will begin at the time of the next circumcision about eight years later. The ceremony of



circumcision, to which great importance is attached, usually takes place when the boys are between the age of thirteen and seventeen years, but it may be delayed longer if the youth's family is poor and cannot afford the necessary present of a goat to the operator and an ox for the feast. After circumcision a Masai who has previously been only a *lyoni*, or youth, becomes a warrior, called *ol-murani* (=the warrior), and remains so until he retires about the age of thirty-two, when he marries. The warriors, as a rule, do not live in the villages of the married people, but dwell apart in kraals of their own with the cattle. Their diet consists almost exclusively of meat, milk, and blood, but whilst they remain warriors they are forbidden the use of tobacco, fish, eggs, fowl, or intoxicating drink.

The Masai have a clear belief in a Supreme Being, and pray to him on certain occasions. Like nearly all other East African tribes, however, their religious ideas are vague, and little has been developed amongst them in the way of religious cultus or mythology. The usual word used to designate God is 'Engai,' a word composed of the feminine singular article, *Eng*, and the substantive *ai*. The name Engai (God) is applied to a being whose power is far beyond those of their minor deities or their ancestral spirits. He is regarded as their great benefactor, chiefly because he sends the rain to make the grass grow which feeds their cattle. The name Engai is understood by them in this definite sense to mean a personal being, associated with the heavens above, who hears their prayers and is able to grant their petitions. It is also used impersonally to describe the more striking operations of nature, such as rain-cloud, thunder-storm, or volcanic eruption. In this secondary sense the meaning seems to be, rather, that the phenomena observed in the work or production of Engai than that it is Engai himself, seeing that he is able to produce results not attainable through inferior spiritual agencies. As a rule the people mention the name Engai only on solemn or ceremonial occasions, and then with the greatest respect and reverence.

In order to understand the Masai prayer for rain it is necessary to mention that they have a curious belief in

two minor gods, a black and a red god, the former being good and the latter malicious. It is the special function of the black god (*Engai narok*) who is kind and benevolent, to send rain ; while, on the other hand, the red god (*Engai nanyokye*), who is malignant, endeavours to prevent the rain and to kill them. These two gods correspond in their respective offices with the two thunder-gods mentioned also in Nandi mythology. The Masai tell the story that one day the black god said to the red one : ' Let us give the people some rain for they are dying of famine.' The red god agreed, and it rained heavily. After a time the red god told the black one to stop the water, as sufficient rain had fallen. The black one was, however, of opinion that the people had not yet had enough, so he refused. Both remained silent after this, and the rain continued till the next morning, when the red god again said that sufficient rain had fallen. The black god, who is supposed to dwell in the rain cloud, and whose dominions are nearer to the earth, then stopped the supply. A few days later the black god proposed that they should give the people some more rain as the grass was still very dry. The red god was, however, obstinate, and refused to agree to the proposal to allow the water to be turned on again. They disputed for some time, and at length the red god threatened to kill the people, whom, he said, the black god was spoiling with overmuch kindness. At this the black god declared : ' I shall not allow you to kill my people ' ; and he has been able to protect them ever since, for he lives near at hand, while the red god is far off. Hence when one sees the forked lightning and hears the thunder crashing high up in the heavens it is believed to be the red god who is trying to come to the earth through the black god's dominions to kill human beings ; but when one hears the gentle rumbling it is the voice of the black god who is saying, ' Leave the people alone, do not kill them.' On this account the black god is beloved, as he dwells in the dark cloud, from which he sends the rain that causes the grass on the plains to grow which feeds their cattle that gives them meat to eat and milk to drink. This happy belief that the good god is

close at hand, hears their prayers and watches over them, while the bad god is far away—a belief which is probably no accidental idea, but due to the fundamental characteristics of the Masai mind—has doubtless saved untold suffering; for it does away at once with the necessity for human sacrifices and all similar methods of propitiating cruel, unseen spirits. Who can hear without a thrill of horror of the awful holocausts of human beings offered by the former kings of Uganda, Dahomy, and other places in Africa, to propitiate their *Ba-lubare*, or tutelary demons: their action springing from the belief that these spirits were evil, invisible, and able to cause them injury.

The Masai were accustomed to deify their 'Laibon,' or chief medicine-man, after his death. Of all the great Laibons they have had, Mbatian, who died about 1890, was the greatest. He ruled more in the style of a patriarch than as a king. All the clans acknowledged him as their chief lawgiver; they obeyed him without hesitation; when he died they firmly believed his soul went to paradise; and now they pray to him. His two sons, Sendayo and Lenana, quarrelled after his death about the right of succession; the former, with a large number of followers, withdrew to what is now German East Africa, while the latter remained in British territory. They are now, however, reconciled, and the whole tribe will probably soon be re-united again under one chieftain. Lenana, the present Laibon, is now an old man, and is the tenth great medicine-man since the founder of the dynasty, but he has by no means equalled, in the eyes of his people, his celebrated father. It is said that long ago, before Europeans ever came to these countries, Mbatian prophesied that white men would one day arrive, and also that troubles would overtake his people. When he was near the point of death, he called the elders and warriors round him, and said to them:—

I am about to die, but after my death do not move from your country. I shall send you cattle from heaven. If you move you will die of small-pox, your cattle will all perish, you will have to fight with a powerful enemy, and you will be beaten. You will, first of all, see flies swarming like bees; then the wild beasts will die, and afterwards the cattle and the people.



Whether he actually made these prophecies or not, at any rate these events have come to pass. Amongst Sendayo's people, who disobeyed his commands by moving farther south, disease broke out and many of them died ; they were also defeated by the Germans in a great battle near Kilimanjaro. While the cattle plague was raging in his own land, Mbatian himself died and was buried with much mourning. Moreover, not long afterwards, the Europeans arrived. Mbatian died at Donyo Erok (black mountain), the seat of the chief medicine-man for many generations, and it was here, a short time before he died, that he made the following most wonderful of all his prophecies. This version of the prophecy, repeated by one of the warriors who was present at the time, is given as nearly as possible in the man's own words, as recorded by the author of *The Last of the Masai* :—

When our father Mbatian felt he was about to die, he called together all the elders and warriors of the Masai. We came in great numbers until the place was black with us, even as our villages are black with flies at the time of the rains. We sat round in lines, curved like the moon when she is first born, and our father Mbatian sat amongst us in full sight and hearing of all. He at first sat saying no word, his eyes seeing what no man else could see. Then he arose, and pointing to the great hills, spoke : 'I see no men ; all, all are finished and gone down. My children are no more.' He sat down again and covered his eyes with his hands, we all sitting silent for the breath had gone from us. Again he looked where he alone saw, and said : 'Now I see neither men nor cattle ; the cattle have followed my children, and the land is empty and bare as the palm of my hand is empty. Woe, woe ! for my land and my children.' As he again ceased to speak the sweat poured from us, and we could not see for fear. The silence was yet longer, and each man, and our father too, was thinking of the evil days to come. When the great one next spoke the grief had departed from him, as the cloud disappears when the rain has fallen ; and with gladness in his voice he pointed to where the great water (Indian Ocean) is, saying : 'They are coming, they are coming ! those who will protect and save my children. See you them not ? First one, then many, many, until the land is full of them, and peace and plenty reign again. See you not the man who is not a man but a god

with fair and shining white face, and behind him many more, until my eyes cannot see the end of them all—all are fair and white. These god-men will follow quickly on the evil times; they will live in my land and they will care for my children when I shall be no more. My eyes shall never see them, but you, my people, will see them; fear them not and harm them not, for they it be who will protect you. Go to them and let them be your father, and be you as children to them, for they are wise and great even beyond your father Mbatian.'

We looked long and earnestly to where our father pointed, but no god-men saw we then. But we believed what we had heard and shook with fear. Ten moons passed, and a great sickness came upon us all. Men, women, and children died and were not. Few, only few, were left, but our cattle still remained. Five more moons passed and another great sickness came, and all our cattle died. Not one cow was left, only a few sheep and goats, and we that remained lived with difficulty. Many of us died, for we had nothing to eat, and those that death spared were shrunk and weak as though age had fallen upon them. More moons came and went, but not many, and then, lo! men came running saying that the god-men had come, and we feared greatly and hid ourselves. But we remembered the words of our father Mbatian, and we came trembling to the god-men, and they were indeed as gods. They were brave and generous, they did not treat us wrongly, and since they have lived in our midst we have dwelt in safety. At first they lived not near us, but now you have come, and many white faces dwell in our land, and you and Lenana are our fathers. Thus have come to pass the words of Mbatian, our great medicine-man, who spoke before he died, and thus he foretold the great disease of men and cattle and the coming of the white man.

The Masai have no temples nor idols, though they carry about on their persons numerous charms. It is well known they use definite prayers, and petition the Deity more frequently and fervently than most of the surrounding heathen Bantu tribes. They have a custom, sometimes met with in other heathen countries, according to which the women and children often pray twice a day, but the men only occasionally or in grave circumstances. Their prayers are invariably chanted, that is, in the style of solo and chorus, when a number of people are present. The occasion of their

prayer-songs is chiefly at milking time, or when holding some special feast. Much of their singing is impromptu, but they have also a set form of words for certain occasions, each song having its own particular air or tune. The prayer-songs, which are sung for obtaining rain, victory, or a happy childbirth, are addressed to Engai as a distinct personality. He is spoken of as the one 'who is prayed to and he hears'; 'who gives the rain and the offspring'; 'who owns the highlands and the lowlands of our country.'

Besides Engai, the sun, moon, morning and evening stars, and the mountain-clouds are also invoked; as well as their chief medicine-man, as already observed, for one song says in two consecutive verses: 'He whom I pray to is God'; and then, 'He whom I pray to is Lenana, our Laibon.' It is probable, speaking in general, that we have in these prayer-songs primitive and undeveloped religious sentiment, where the personality of the Deity is hardly separated from striking natural phenomena; remnants of some old cultus of the heavenly bodies, mountains, and tribal deities; or, perhaps, the faint traces of Bible traditions, preserved in a hazy way by a military race whose struggle for existence during the ages of the past did not allow them to pay much attention to religion.

It is by no means asserting too much to say that, however savage the Masai may be, the Creator on His part has not left them wholly ignorant of His existence; whilst on their part they have not refused to offer Him at least some kind of worship and to make some kind of acknowledgment of the benevolence and of the power of their beloved Engai. This reliance of theirs on God will be clearly seen from the following examples of prayers and songs, through all of which there runs—particularly as sung on ceremonial occasions—a deep religious sentiment, and on the part of the singers there would appear to be a vivid consciousness of the dependence of the creature on his Creator.

(1) There is, first of all, the old men's prayer for rain in time of drought. If there has been no rain for a long time and the land is parched, the old men light a bonfire of cordia wood, into which is thrown the medicine-man's



charm, called 'ol-okora.' They then encircle the fire and sing the following prayer in their own language :—

*Solo.*—The black god, ho !

*Chorus.*—O God ! give us water.

*Solo.*—Thou of the uttermost parts of the earth !

*Chorus.*—O God ! give us water.

*Solo.*—The black god, ho !

*Chorus.*—O God ! give us water.

(2) There is also the women's prayer for rain. If there is a drought the women and children collect together, and, having tied bunches of grass on to their clothes, they sing :—

*Solo.*—Our herbs of the earth's back.

*Chorus.*—Hie ! wae ! Almighty.

*Solo.*—The father of my Nasira<sup>1</sup> has conquered, has conquered.

*Chorus.*—The highlands and also the lowlands

Of our vast country which belongs to God.

*Solo.*—May this be our year, our year.

*Chorus.*—O messenger of Mbatian's son !

(3) The Masai, being a fighting race, have numerous songs in time of war. Whenever their warriors wished to go to the wars formerly, they first of all visited the Laibon, and as soon as he had given them medicine and favourable advice they started. When the old men bade their warrior-sons good-bye they poured a little milk and honey-wine on the ground as a libation, saying 'Enyor Engai' ('God wishes it'). The women sprinkled the warriors with milk from a gourd as a token of good luck. On being victorious they sang the following song whilst driving off the cattle of their enemy ; but now that their raiding days are over they have most probably sang it for the last time, their present employment by government as policemen, herdsmen, and frontier guards not requiring such a warlike song :—

*Solo.*—Aōmon ol-ari lai, naōmon Engai.

*Chorus.*—Wo-ho, woo-hoo ! Wo-ho, woo-hoo !

*Solo.*—Aōmon ol-ari lai, naōmon Ol-Lenana.

*Chorus.*—Wh-ho, woo-hoo ! Wo-ho, woo-hoo !

*Solo.*—Ol-oiboni lañg, ol-oiboni lañg

Kiliki manyat naamanya 'lmoñgi.

*Chorus.*—Wo-ho, woo-hoo ! Wo-ho, woo-hoo !

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<sup>1</sup> Nasira was Mbatian's daughter, and half-sister to Lenana.

The chorus sounds like the 'college yell' heard from the students in some places of learning at home and in America, but a literal translation of the words runs :—

*Solo.*—I pray [that this may be] my year, whom I pray to is God.

*Chorus.*—Wo-ho, woo-hoo! Wo-ho, woo-hoo!

*Solo.*—I pray [that this may be] my year, whom I pray to is Lenana.

*Chorus.*—Wo-ho, woo-hoo! Wo-ho, woo-hoo!

*Solo.*—Our medicine-man, our medicine-man

We tell thee the kraals in which are the bullocks.

*Chorus.*—Wo-ho, woo-hoo! Wo-ho, woo-hoo!

(4) There is a prayer to God which is sung by the women and girls when the warriors tarry on a raid. All the women of the village collect together, and, whilst holding in their hands small milk-gourds covered with green grass, sing as follows :—

*Solo.*—O God! O God! tear out

*Chorus.*—The brand-marks of the people!<sup>1</sup>

*Solo.*—Tear out, tear out

*Chorus.*—The brand-marks of the people!

*Solo.*—O girls, be not silent.

*Chorus.*—It is being prayed to God.

*Solo.*—Tear out, tear out

*Chorus.*—The brand-marks of the people!

*Solo.*—O Venus, who is rising

*Chorus.*—And the evening star.

*Solo.*—Tear out, tear out

*Chorus.*—The brand-marks of the people!

*Solo.*—O clouds of snow-capped mountains, tear out

*Chorus.*—The brand-marks of the people!

*Solo.*—He<sup>2</sup> who waits till the heavens are red, tear out

*Chorus.*—The brand-marks of the people!

(5) When warriors away on a raid are expected home, their mothers, sisters, and sweethearts assemble outside the huts on the appearance of 'Kileghen' (the morning star) in the heavens, and pray to God. They tie grass on to their clothes, and leave milk in their gourds, for they say: 'Our children will soon be returning, and when they arrive they

<sup>1</sup> The meaning here is 'Break the power of the foe.'    <sup>2</sup> The rising sun.

may be hungry.' When they have all gathered they sing as follows :—

*Solo.*—The God to whom I pray, and he hears.

*Chorus.*—The God to whom I pray for offspring.

*Solo.*—I pray the heavenly bodies which have risen.

*Chorus.*—The God to whom I pray for offspring.

*Solo.*—Return hither our children.

*Chorus.*—Return hither our children.

O God to whom I pray for [my] offspring.

(6) The most beautiful of all their prayers and the one which is perhaps sung the oftenest is 'The women's hymn to God for happy childbirth.' When a child is born the women of the place collect together and take milk to the mother; they then kill a sheep, which is called 'the purifier of the hut,' or simply 'the purifier,' and make a feast. The women slaughter the animal by themselves and, with the mother, eat all the meat. No man may approach the spot where the animal is being killed, as it is considered unlawful to do so. When the women have finished their meal they all stand up and sing the following hymn, a free translation of which is here given :—

I.

My God, to thee alone I pray

That offspring may to me be given.

Thee also I invoke each day

O morning star in highest heaven.

God of the thunder and the rain,

Give ear unto my suppliant strain.

Lord of the powers of the air!

To thee I raise my daily prayer.

II.

My God, to thee alone I pray,

Whose savour is as passing sweet

As only choicest herbs display,

Thy blessing daily I entreat.

Thou hearest when I pray to thee

And listenest in thy clemency.

Lord of the powers of the air!

To thee I raise my daily prayer.

LUKE PLUNKETT.



## THE ORIGIN AND DEVELOPMENT OF GILDS AND TRADES UNIONS

IN these times of social upheaval and economic reconstruction there is perhaps no subject so debated as the growth of Trades Unionism. Everyone, except the most hide-bound conservative, recognizes how necessary and lawful it is for labour to organize for protective purposes. On the other hand, the excessive and unreasonable demands of a certain type of Trades Unionist have alienated the sympathy of many sincere friends, and have given a handle to the opponents of the rights of labour. We in Ireland, especially, have suffered so severely from the epidemic of strikes which paralysed our whole industrial system that a general feeling of impatience towards the workers' combinations exists among the public. But Trades Unionism has come to stay, and instead of growing less powerful it will become more powerful. This year a Manhood Suffrage Bill is to be introduced into the British Parliament. When this Bill becomes law the hands of the workers will be strengthened and the power of their organizations in consequence increased. Therefore, it behoves us, instead of fighting against the inevitable, to consider how these workingmen's associations can be directed into legitimate paths, and, in Ireland, how they can be moulded in accordance with religious and national sentiment. The early guilds were steeped in a religious spirit, and were instinct with civic patriotism. Their successors, the Trades Unions, are not remarkable for either of these characteristics. Cannot we engraft on the new bodies some of the ancient spirit? In the history of one of the old Dublin guilds, the 'Gild of Holy Trinity,' a writer who loved and revered them breathed this prayer: 'Would that the spirit in which these early Fathers met together, prayed together, and aided one another, their liberty and charity,

could be shown to their brethern and sistern of these later days.'

There is a prevalent, but mistaken, notion that Trades Unionism is quite a modern invention, springing from the democratic tendencies of the age. But from the earliest times we find allusions to combinations among workers. Pliny writes from Asia Minor to the Emperor Trajan, about the year A.D. 112 : ' Consider, sire, whether the establishment of a gild of craftsmen, about 150 men, would meet with your approval. I shall take care that no one but a craftsman be admitted, and that the gild use for no alien purpose the right allowed them. It will not be hard to keep a watch on such a small number.' Trajan replies to his imperial legate as follows :—

You, following the example of many others, have got the idea that a gild of craftsmen can be established among the inhabitants of Nicomedia. But let us bear in mind that the province where you are, and particularly its cities, have been harassed by factions of that kind. Whatever title, from whatever source derived, we give to men banded together for a common object, they will become clubs, though these clubs may not have a long life. It is better, therefore, to use unorganized labour even for such purposes as extinction of conflagrations.

In another letter Pliny asks his imperial master what are his views with regard to the sanctioning or suppressing of societies for mutual aid. The emperor answers :—

Allow them their societies which they enjoy by virtue of the treaty of federation, especially if they do not use their funds for rioting and unlawful purposes, but for the support of their poorer members in want. In all other cities which possess Roman citizenship or the Latin franchise, institutions of the kind are to be prevented.

Coming nearer home, we find there were gilds or trades unions in ancient Ireland, according to Keating's *History of Ireland*, Book II., Section V. I give the words of the translator, the Rev. P. Dinneen :—

Oilill Molt (A.D. 463-482) convened the Feis in Tara. There used to be three assemblies in Ireland in the olden time, to wit, the Feis at Tara, the Feis at Emhain, and the Feis of Cruachain.

The chief object for which the Feis of Emhain and the Feis of Cruachain were convened was to approve those who practised mechanical crafts in Ireland, such as smith-work, stone-work, and wood-work, or the like handicrafts. And the nobles and ollamhs (learned men) who were at these two assemblies, selected from each assembly three score masters of each craft, and they were then distributed throughout Ireland, and no fellow-craftsman to these was permitted to practise his craft without permission from the master of that craft, who was in that district, and the master must examine whether he be competent to practise the craft. And these masters were called 'Ioldánaigh.' Now 'Ioldánaigh' means 'Iolcheardaigh,' or skilled in many crafts, for 'dán' means 'ceard' or craft.

In the same century in which these laws were being enacted in Ireland, we find that Trades Unionism, which had been suppressed three centuries earlier in the Roman Empire, was now not only recognized by the State, but had become part of the State system. Mr. George Russell, who has written so illuminatingly on Irish economics, referred recently to Trades Unionism under the Roman Empire. Having marked the fact that the organization of trades became compulsory, so that there could be no trouble about union labour and non-union labour, as all were in the trades unions, he then explained that

these unions having monopolies, began to make living expensive, and the government found that the poor complained, and the unions were forced to do a certain amount of work for the poor at nominal rates. The members of the trades unions did not like this. It became necessary to compel the members to do their share of the work for the poor in proportion to the capital each had. To escape this, capital was withdrawn. Then came a law forbidding capital to be withdrawn. Then nobody with capital would join a trades union. Then resignations came in as men felt they preferred freedom to compulsory work. The next step on the part of the State was to make Trades Unionism compulsory for life. Once a member always a member. Finally, in 408 we find that not only must a Trades Unionist's sons all belong to the union, but if a man married a Trades Unionist's daughter he must belong to the union.

The result of all this State Trades Unionism was disastrous.



The cost of living went up. A maximum price had to be put on every kind of food. Agriculture languished and the industrial life of the country was throttled. When the Goths came the common people hailed them as deliverers from an intolerable social tyranny. Mr. Russell proceeds to advocate a system of labour co-partnership or profit-sharing which, instead of placing labour and capitalism in antagonism, would lead them to work harmoniously together. However, into this aspect of the question it is not my intention to enter. I am merely tracing the history of labour organizations, and not suggesting alternative policies.

The word 'gild' is spelt in modern times with or without the *u*, but without the *u* it approximates closer to the original. It is derived from a Saxon word meaning 'rateable payment,' which we find in old records written variously, 'gield,' 'gild,' 'gyld.'

England is the birthplace of gilds in the sense that the word had in medieval times. The undeveloped idea may be found, as already stated, in the records of older civilizations, but it remained for England to complete the development. The oldest reliable account of English gilds consists of three gild statutes at the beginning of the eleventh century. They had a distinctly religious as well as social character. In fact the idea of social service was inextricably blended with that of religion. It was taught to the people of the Middle Ages by the scholastics as the '*opera corporalia misericordiae*.'

The objects of these gilds were the support and nursing of infirm gild-brothers, the burial of the dead, the performance of religious services, and the saying of prayers for their souls. They were founded in honour of God and St. Peter by Orcy, a friend of King Canute. They met once a year, on the Feast of St. Peter, for united worship in honour of their patron saint. A meal was partaken of in common, and alms were given to the poor on the day of the feast, the gild-brothers being obliged to furnish contributions of 'bread well boulded and thoroughly baked.' Anyone undertaking any office of the gild and not properly fulfilling it was severely punished. Offences by one member to another

were also punished. Similar statutes of gilds of later date exist. Those extant at Exeter and other English towns are even more religious in tone. The members met three times yearly to worship together for the well-being of their living and dead brothers. The statutes of the Cambridge Gild give an oath which the members took on the relics of the patron saint of the gild. They swore faithful brotherhood towards each other, not only in religious but in secular matters. The other gilds confined themselves to spiritual matters, and to corporal deeds of mercy, but now we find the material well-being of the members also coming into consideration. The principle of mutual responsibility was enforced. One of the statutes reads: 'If one misdo, let all share the same lot,' and an organization existed for carrying out these provisions.

If one of the gild-brothers wanted help, his brethren were obliged to furnish it, not only in cases where the brother was justly aggrieved, such as if he were robbed or assaulted, but even in cases where he was the aggressor and was in the wrong, unless in the case of murder in the first degree.

The essence of the regulations of the statutes of these, the oldest gilds extant, was the banding together into close union between man and man, sometimes fortified by oath and sanctioned by religion, for the purpose of mutual help and support. This characteristic is found in the gilds of every age, down to their descendants or supplanters, the trades unions. Other features varied according to local needs.

While it is in England that we find the earliest accounts extant of organized gilds, their vague origins are to be found in German tribes where the family was the unit round which every interest revolved, and which broadened later into tribal associations. They may be said to have had both a pagan and a Christian origin. Wilda, Hartzwig, and other writers show that in pagan times societies existed for mutual benefit, meeting at feasts, and holding pagan celebrations. Brentano says the 'religious brotherhoods of laymen or sodalities, as they are called in modern times, originated in a copying of monasticism by men who, while wishing to

accumulate merit for the next world, were not prepared to renounce the present.' When Christianity spread from southern to northern lands, it found existing among the Frankish, Teutonic, Saxon and other mid- and north-European peoples these pagan unions, with their attendant banquets; and an amalgamation was effected between them and the Christian brotherhoods. The pagan ceremonials were eliminated, and Christian rites were introduced in their place, while the social and philanthropic nature of the organization was retained. From this union sprang the guilds, and they spread rapidly under Christian influence, gradually acquiring an industrial character.

King Alfred's laws refer to them as 'gegildan,' and state that the members of the gegildan are liable to pay a proportion of the fine for which a man is mulcted who kills another. In the statutes of the London guilds, written in the time of King Athelstan, an already advanced development of the gild is shown. The same rules govern them as have been previously described with reference to the other English guilds. There were prayers for the dead, mutual support for the living members, almsgiving to the poor, festive social meetings, and public worship in common at stated times. While they were allowed to flourish in England they were at the same period suppressed on the Continent by the feudal lords. A series of capitularies of the Emperor Charlemagne and his successors condemned them. He was jealous of their power, and wanted to centralize all authority in his government. Under Louis le Debonair guilds are to be met with in Flanders among serfs, and their lords are told by the King to suppress them.

Ecclesiastical guilds also existed. They became corrupt, and were denounced by a reforming prelate, Hincmar, Archbishop of Rheims.

The guilds had certainly at this epoch some defects in the Frankish countries. They were still tinged with paganism, and gluttony and other excesses were indulged in at the feasts. Under King Henry I. of Germany a better understanding arose between the State and the guilds, and they were encouraged by the government. The same policy was



adopted 150 years later by Olaf Kirre of Norway. Each fresh document dealing with gilds emphasizes their religious character. Hincmar, whose edicts are, of course, in Latin, writes: 'They shall unite in every exercise of religion'—*'in omni obsequio religionis jungantur.'*

The gilds everywhere were under the patronage of the saints, or the Mother of God, or some religious mystery, such as 'the Holy Trinity,' 'the Blessed Sacrament.' At York the Gild of Corpus Christi flourished, which organized public processions once a year in honour of the Blessed Sacrament, as is still done in Munich, Vienna, Madrid, and other Catholic cities. Brentano remarks that if the National Life Boat Institution had existed in the Middle Ages it would undoubtedly have been a religious gild, as gilds undertook all corporal works of mercy—burying the dead, and visiting and succouring the poor and sick.

Various writers, including Mr. Ludlow, and Sir Frederick Eden, point out the analogy between modern friendly societies and the old religious and social gilds, but the modern societies have been in most instances shorn of religious characteristics.

Kemble says 'the gilds formed the nursery cradles of popular liberty, and were among the oldest defenders of the dignity of man against feudal arbitrariness.' But the burghers, having got freedom for themselves, began to oppress the people and excluded them from membership of the gilds.

In the tenth century gild merchants arose who became very powerful in England and continental countries. They were a power to be reckoned with even by kings. In the annals of Denmark detailed accounts are to be found of these 'Frith Gilds,' as they were called. Women were admitted members, but they were not permitted to administer the gild affairs. They were allowed only to share in the benefits and burdens. They were usually the wives and daughters of the members, and the members were called 'burghers.' But in at least one town the women must have asserted a more independent position than this; for in the chronicles of Cologne it is related that there was

at one time a fierce hubbub among the men members, who strove to oust the women from the gild in which they were acquiring what the men considered undue power. From the tenth to the thirteenth centuries the burghers waxed more opulent and arrogant. They made laws by which craftsmen were not admitted or 'anyone whose fingers were stained with indigo or otherwise disfigured with work.' Later, this law had to be relaxed and craftsmen were admitted if they were full citizens, that is, if they possessed property. The Frith Gilds developed into capitalist organizations, and the one idea of the craftsmen of the thirteenth and fourteenth centuries was to overthrow their tyranny. Craft gilds were formed, and violent struggles broke out in most of the continental towns between the craftsmen and the Frith Gilds. The members of the Frith Gilds now called themselves 'Patricians.' Towards the end of the fourteenth century the craftsmen had won. They attained a modicum of equal political rights and justice. Mixed governing bodies for the towns were formed, consisting of patricians and craftsmen, and the old gild constitution was replaced by that of the commune. In England similar changes were effected at the same period but with less violence. The Reformation broke up many old associations. In Denmark and Germany the political and religious significance of the gilds disappeared, and only a social character remained.

It is notable that the weavers were the most important of the crafts gilds, and centuries later those engaged in the woollen trade were to be the pioneers of Trades Unionism in England. The Weavers' Craft Gild originated in Flanders and Brabant, where a sturdy spirit of independence existed among the workers.

From the rules of the crafts gilds we learn that a high standard both of work and character was demanded :—

None were admitted to any trade, even the lowest, or tolerated in it whose moral conduct and honour were not stainless, and who were not of legitimate birth ; no one, also, who had not proved himself a proper workman and had not served his full apprenticeship.

The admission of an apprentice was an act of public

solemnity. It was a novitiate to citizenship, and took place in the town hall. The apprentice was instructed in his duties, moral and industrial. The indentures were drawn up by which he was bound to his master, 'who had not only to teach him his trade, but to watch like a father over his morals,' and he was received as a member in his master's family. At the end of the apprenticeship the man was received a member of the gild, and became thereby a citizen of the town. The use of proper tools and good materials was enjoined. No shoddy work was tolerated in the crafts gild, and the craftsmen took an individual pride in the work of their hands, which it is impossible for the modern manipulator of machinery to feel. Hygienic rules for carrying out the work cleanly and wholesomely were enforced, and it was enacted that 'no one shall work longer than from beginning of day to curfew, nor by candlelight.' Holidays were also observed; Saturday was always a holiday.

Crafts gilds had exactly the same religious features as the burgher gilds. They had chaplains, founded Masses and altars, painted windows in cathedrals. Even still their coats of arms may be seen side by side with those of kings and barons in churches. An interesting instance of a similar thing in modern times is found in the old Catholic church in Howth, Co. Dublin, now disused since the new church has been built. The old church was built entirely by the voluntary labour of the poor people of the neighbourhood. Over the door they placed what might be called their coat of arms, the sign of their trade, a touching and silent witness to a people's faith and self-sacrifice.

In the crafts gilds we also find that one of the striking features was a care for the souls of the dead. Prayers and Masses were constantly offered and alms given for the souls' sake of departed members. The statutes of Lincoln state: 'When any of the brethern and sistern dies, the rest shall give a halfpenny each to buy bread to give to the poor for the soul's sake of the dead.'

The crafts gilds also in time encroached on the rights of labour. The members became capitalists and oppressed the poor. Then fraternities of journeymen workmen were



formed on the model of the crafts guilds, just as the crafts guilds were formed on the model of the frith or burgher guilds. The germs of modern Trades Unionism are to be found in these workingmen's associations. The crafts guilds tried to suppress them, but unsuccessfully. The overthrow of the crafts guilds was ultimately brought about by the introduction of machinery and the investment of capital in manufactures on a big scale. In England, Birmingham and Manchester arose, and the old burgher towns decayed. The French guilds were swept away by the Revolution in 1789, and in Germany by the North Germany Industrial Code of 1869. In England nothing remains of the masters' unions but eating and drinking reunions, but the workingmen's associations have as their successors the trades unions of to-day.

So the guilds passed away in the northern countries where they had originated. In Italy they had flourished prodigiously in the Middle Ages. To give a detailed account of the Florentine guilds would require a paper in itself. The opulent colour and picturesque environment of Florentine medieval life lent to the guilds in this city an enhanced attraction. In Italy and the other southern countries the guild traditions are to some extent carried on by religious sodalities, such as that in Rome, to which all ranks of men belong, and the members of which bind themselves to hasten at the first summons from dance or banquet or business, to attend to the sick or dying, or bury the friendless dead. They wear a costume including a covering for the face, and are bound not to reveal their name so that their good works are done unostentatiously.

All this time what was happening in Ireland? The story of Irish civilization is one of arrested development. After the fall of Limerick the stream of national continuity was broken, and our Gaelic traditions were uprooted. Land, property, and commerce passed from the hands of the native race to an alien one, and Irishmen had no opportunity to construct a national edifice on lines adapted to their own genius. If Ireland had been free to develop on her own lines, it is safe to assume that she would have had

Gaelic gilds rivalling in importance and wealth those of Bruges, Cologne, Florence, and York, and as steeped as they were in religious and national characteristics. But this was not to be. When the gild system was launched in Ireland it was imported bodily by the English settlers in whose hands the principal trade of the country lay. These merchant colonists made the most stringent regulations against the admission of Catholic Gaels to their gilds, but like many another penalizing statute of this kind it was found in time to be unworkable, and the natives were admitted members. Mr. Egan Kenny, a recognized authority on medieval Ireland, writes :—

In spite of the inevitable clause in the Charters of the Dublin Craft Gilds, that none but a member of the English nation was to be admitted to membership, yet a cursory study of the existing records shows that the surrounding clansmen were fully represented in the blood and bone of the gilds. The O'Byrnes, O'Tooles, Ryans and O'Heynes, Hanlons, Dermots, Kavanaghs, Connors, Coynes, Flanagans, Connells, are some few of the more common Gaelic names of such craftsmen.

Mrs. Green, in her *Making of Ireland and its Undoing*, tells us that four times in twenty years an order was made that there were to be no Irish apprentices, and she mentions other enactments such as 'None was to be of the goldsmith's fraternity who was not born of English parents.' But the very fact of the frequency of these enactments proved that they were being continually treated as a dead letter. In the provincial Irish trading towns, notably Waterford, Galway, and Cork, the native Irish had already attained a thriving position as merchants, and the names of Gaels and Sean Galls are found in the town records side by side with the new settlers. For instance, in Galway, Mrs. Green says :—

There were many Irish apprentices and merchants—the Goldsmith Donnell O'Vollaghan, with all rights of a merchant trading to foreign lands; O'Trehy, O'Doran, Halloran O'Markighan, O'Muylan, formally taken as apprentices by Skerretts and Martins and Frenchs and Lynchs on the terms that after some years they should be free men and merchants, in partnership for a time with the employer, who was to give a loan to start them in trade.

This was in the sixteenth century. She gives further lists of Gaelic names to be found in the Galway town records, as merchants and apprentices ; and on the roll of mayors of Waterford are to be found such names as Patrick Mulgan and Philip Bryan, who, in 1483, went on a pilgrimage to Compostella. The same author tells us that ' A long series of Irish Mayors marks the roll of Cork : O'Heynes, Meaghs, Murroughs, Terrys, O'Reillys, Creaghs.' So much for the provincial towns ; but Dublin made greater efforts to keep itself a foreign town. However, in the end it was found that Dublin could not get on without Ireland, so from the beginning of the sixteenth century we find numerous Gaelic names entered on the roll of Dublin freemen. In some of the craft gilds we find more than half the names to be Gaelic, and it must be remembered that in addition to these whose origin is thus obvious there must have been numbers of others of the old race who, in conformity with the law, changed their names to that of a town or trade. In the *Making of Ireland and its Undoing* Mrs. Green has given to the world, for the first time, an account of commerce in medieval Ireland, its growth in spite of English jealousy and restrictions, and its ultimate ruin owing to these causes.

What we know of the Dublin gilds we get through scattered records and journals. The most interesting of these belong to the Dublin Gild of Merchants known as the Gild of the Holy Trinity, 1438-1671. These have been published by the Society of Antiquarians, and edited by Mr. Berry, who has also published a paper dealing with the Corporation of Barber Surgeons in Dublin. The Dublin gild records are now scattered. Some are owned by city business firms, others have passed into private custody. There were twenty-five city gilds, but all their records except those relating to four are lost.

The earliest charter of the Dublin Gild of Merchants is dated 1451, but records exist which prove the body much older. The gilds were lay bodies who employed a chaplain of the Protestant faith. Women as well as men were admitted. They assisted members in distress, and settled



disputes without going to law. They had committee meetings and strict regulations, and met for social pleasures. They had feast days, when the members, dressed in their livery, attended religious services, and afterwards feasted together. The system of apprenticeship was strongly insisted upon, and good craftsmanship was thus ensured. Many trades were included in the gilds—goldsmiths, tailors, weavers, painters, and cutlers.

The Gild of the Holy Trinity was the most important in Dublin. It was founded to establish fraternity 'of the art of Merchants in the City of Dublin, Men and Women, in the Chapel of the Holy Trinity in the Cathedral Church of the Holy Trinity.'

There were many strict regulations connected with it, particularly directed against foreigners :—

No foreigners to buy merchandise in retail or gross, within the city and suburbs except from merchants dwelling in said city or its franchise. . . . No person not elected to the body, and no foreigner, to buy, sell, or expose for sale any merchandise, food excepted, within the city, suburbs and precincts of St. Patrick's and Christ Church, within the place commonly called the Bishop's Glebe, or within the precincts of St. Sepulchre, St. Mary's Abbey, and St. Thomas Court Abbey, unless of merchants and to merchants of said fraternity or gild, under pain of forfeiting the goods bought or sold. . . . All foreign merchants were to carry their wares for sale to the Common City Hall or such place as should be assigned by the Masters and Warders.

It was also permitted to punish by fine or imprisonment 'any foreign merchant committing offences.'

From these and other regulations we see what jealous and exclusive bodies the gilds were, and how rigorously they guarded their privileges.

The Gild of Holy Trinity comprised very wealthy merchants, who dealt wholesale in wine, coal, iron, salt, and other commodities. 'They engaged in trade that required capital.' These merchant gilds completely prevented free commercial intercourse owing to their hampering regulations regarding strangers. The apprenticeship was to be

for a term of not less than seven years. Here are some of the strict rules which were made in 1574 regarding apprentices :—

Divers having been found wasting their master's goods, by stealing, or playing unlawful games, and in excess of apparel, to the hurt of same, in slander of the company, it was ordered that any youth wasting above the value of twelve Irish pennies, such as haunt taverns or live viciously, shall be brought by his master to the Tholsel [the meeting-place of the Gild in Skinners' Row] before the Masters and Warden, and if found guilty shall cause him to be stripped naked and they shall then whip him with groine birchen rod as much as his fault shall be thought fit to have deserved.

Twelve apprentices were to be present as a warning to them. The stocks were also used as a punishment.

No master was to suffer his apprentice to wear apparel [unless the old of his master] but such as became his position, namely, a cloth coat with guarding or cutting, a doublet not silk, also a shirt of the country's cloth, the ruff to be one yard long, a pair of hose consisting of not more than two yards of cloth and the breech of the hose not to be bolstered out with woolly hair or anything, one lying close to the thigh, not cut or stitched with silk but plain in all respects.

These regulations must have been very galling to the young apprentices when we consider how gorgeously the gallants of those days dressed.

Next in importance to the Trinity Gild came tailors, second ; smiths, third ; barbers, fourth. St. Mary Magdalene was the patron of the last-named.

The fraternity of the barbers was really an ancient medical corporation. Surgeons were not at first incorporated in it, but they were in 1577. 'Blood-letting was practised by the barbers. The pole over barbers' shops is said to have had its origin in the fact that the patient had to keep his arm stretched out during the operation, and for this purpose was given a long staff. Sometimes quacks were proceeded against. Some old entries show this, such as the following : ' William who had one John Tallon his

wife in hands of a broken leg and did set it crooked, and spoiled said Tallon's wife, that she was never to do herself no good till she died.'

Trade unions may be said to be heirs of the spirit, though not of the body, of the craft guilds, i.e., there is no historical evidence to show that any body calling itself a craft gild engrafted on to itself or joined a body calling itself a trades union; but trades unions arose under the same circumstances and for the same purposes for which the frith guilds and craft guilds arose in former times, namely, to protect the workers from oppression by patricians or plutocrats, and to organize the men for mutual aid. But the old religious tone was eliminated, and in this important particular the spirit of the guilds was not perpetuated.

As long as the regulations of the statute of apprentices passed in the reign of Elizabeth were maintained, the position of workers, both apprentices and journeymen, was secure. But they were not always enforced by the justices, who were partial to their own class, the capitalists. The men then began to agitate and combine. Wages in the weaving and woollen trades were regulated by law in 1720, but again we find the law not enforced. In 1725 the men were forbidden to combine. In 1756 the men put forward a demand which they had previously made for wages to be regulated by Parliament, but the masters sent in a counter-petition, and the justices sided with the employers. Then the weavers revolted. The first strike on record in England took place. The strikers hindered journeymen from working, and the treatment meted out to the modern 'blackleg' was accorded to the non-strikers. The strike was successful, the masters yielded, and the justices were again ordered by Parliament to fix wages. Brentano writes of these events: 'But these were transitory skirmishes, and did not lead to the formation of lasting trade societies. This did not come about till the transition of the woollen manufactures from the domestic "cottage loom," which was the rule in the eighteenth century, to the factory system.'

The introduction of machinery brought about a drastic



change. The apprentice system was abolished and untrained hands, including women and children, were employed in the factories. The men again combined, and were suppressed in 1800. They then combined under the cloak of friendly societies, which were in reality trades unions. In 1803 the 'Clothiers' Community' combined as a quasi-friendly, quasi-industrial league. In this union moral behaviour was safeguarded, as in the old gilds; bad language, dishonesty, and other ill-behaviour was punished. At first the masters were in this union, but withdrew when it aided men on strike. From this on, for some years, the progress of Trades Unionism is a story of riot and bloodshed; but though often suppressed, it forged its way ahead. From these small beginnings, the widespread system which we know to-day as Trades Unionism originated. Its foundation and growth were more than justified by the terrible oppression with which employees were treated by unscrupulous employers. The unorganized workers were sweated, and their only remedy was found in union with their fellow-workers.

Since 1824 trades unions have been partially recognized by law; their complete recognition is probably only a matter of time. It is perhaps only to be expected that in the first flush of their newly-gained power the workers may be arrogant and aggressive. But when they have enjoyed their power for some time they may grow more reasonable; for, as a great writer has said, 'It is freedom alone which fits men for freedom.'

It is a fact, both strange and deplorable, that nowhere have unjustifiable strikes been carried to such a pitch as in Dublin. Several once flourishing manufactures have been entirely ruined in this city owing to the unreasonable behaviour of the workers. Mr. Frank MacDonagh, in an informative paper on the subject, describes the steps that O'Connell was forced to take to curb the outrageous demands of certain Dublin trade societies. The Irish leader declared that 'the ruin inflicted on the trade of Ireland by the organizations of her operatives at this period was even greater than that caused by absenteeism and misgovern-

ment.' A Committee of the House of Commons was appointed to investigate the subject at the instigation of O'Connell. This Committee found that wages to the amount of £500,000 had been driven out of Dublin through strikes. Nearly every trade in Dublin had been injured by the strikes. The cotton printing, which was beginning to flourish in Dublin, collapsed owing to the strikes. The same happened to the foundry trade; and most important of all the manufactures destroyed by strikes was that of ship-building. At one time the Liffey rivalled the Lagan as a shipbuilding centre. Four great ship-builders had their works in Dublin. But this trade was completely destroyed, as a Parliamentary Report of 1838 tells us, by combination of a violent kind among the workers. Soon not a single master-shipwright remained in Dublin; and not only the ship-building but half a dozen allied trades also disappeared, such as blacksmiths, rope-makers, sail-makers, etc. The coach-building trade was also assailed, but the famous old firm of Hutton managed to weather the storm, and still remains to-day.

Dr. Samuel Smiles says in one of his books that if strikes and combinations could raise the conditions of labour, Dublin ought to be the Paradise of the working-man. Other Irish towns as well as Dublin suffered from the strike mania in those days. Among other trades ruined by strikers were those of blanket-making in Kilkenny and glass manufacture in Waterford.

As far back as 1767 a weavers' strike in the then flourishing Liberties of Dublin nearly paralysed the woollen industry. An interesting account of this strike is given in a book by Mr. T. J. Rooney, entitled *The Strike: A Tale of the Old Dublin Liberties*. As a novel, which the book purports to be, it has not much merit, but as a picture of the social and industrial life of the time it is valuable.

We want more books and pamphlets of this kind, as historians and historical novelists alike have neglected the industrial side of our history, which is not altogether as dry as dust, but is full of colour and romance.

We have now entered on a new phase of our industrial history. Let us hope that those who are moulding it will not ignore our own peculiar needs and circumstances, but adapt it to our religious and national traditions, instead of importing a cast-iron system from across the Channel where the conditions are quite dissimilar from ours.

THOMAS P. O'NOLAN.



## FAITH AND REASON IN RELATION TO CONVERSION TO THE CHURCH—I

### A LETTER TO A FRIEND

**M**Y DEAR FRIEND—It was very good of you to express interest in what I was saying to you some time ago, and to suggest that I should put it into writing, so that you might consider the same at leisure. I shall be glad to try and do so, and to hear your comments upon my mental attitude.

The line of thought which I was indicating was, at one time, very practical to me, because it was the final consideration which put an end to my mental oscillations, and enabled me to enter, with full conviction that I was doing right, upon the course of action which resulted in my reception into the Church.

My thoughts were turned specially in this direction, because the Vice-Principal of a certain Anglican Theological College had (on my consulting him about my misgivings as to the Catholicity of the Anglican Church) tried to persuade me that my anxiety was caused by my relying upon Reason, instead of upon Faith. His position appeared to be, that by Faith (whatever that term might signify to him) we knew the Anglican communion to be for us the Body of Christ, and that to use our reason in considering her credentials and in enquiring, whether she was really what the leaders of the High Church Party declared her to be, was to yield to a temptation against Faith, and, in a word, to be a rationalist. According to his view, it was only by relying on Reason, as contrasted with Faith, that anyone could forsake communion with the See of Canterbury for communion with the See of Rome. This view of his seemed to me to be absurd, for it was to accuse Cardinal Newman, and Cardinal Manning, and Father Faber, and all the others who had followed their example, of being rationalists, and of having sinned against Faith: and yet, as I knew that

my correspondent echoed the opinion of some of the best and ablest men in the communion to which we both at that time belonged, I set myself to consider more particularly the exact meaning of Faith, especially in its relation to Reason, and asked myself how these good men could have arrived at a position which seemed to me to be so grotesque. It was easy to see the convenience of this theory for the purpose of preventing conversions ; since, if accepted, it put an end to enquiry, by representing this as a sin against Faith. But it was evident that to be effective in preventing conversions was not the same thing as to be true. I therefore sought to investigate its truth or falsehood.

Even before that time, I had been anxious to see clearly in my own mind the true relation between Reason and Faith, because, even in my undergraduate days, it struck me as a difficulty, and as a seeming inconsistency, that 'Virtue,' taken generally, was defined as 'acting according to Reason,' and yet acting according to Reason was often contrasted with acting according to Faith. This seemed to set Faith in opposition to Virtue, while, nevertheless, Faith was reckoned a particular virtue, to wit, the first of the theological virtues. I felt that there was here some ambiguity in the use of terms, and I wanted to find out where the logical equivocation lurked. The search became a matter of urgency to me, when upon it hung the decision, whether to remain an Anglican or to become a Catholic. It was obvious that the Anglican position was essentially unreasonable ; but the question was, whether this unreasonableness would justify me in departing from it.

The conclusion at which I then arrived, and which enabled me with full confidence to become a Catholic, was this : that the contrast between Reason and Faith, as used by the Vice-Principal in his argument, was a fallacy—a fallacy based upon a fundamental error as to the nature of Faith, and on an ambiguous and variable use of the word Reason ; a fallacy, too, which seems to keep many people out of the Church, by inducing them to reject the evidence which ought to lead them into it, under the false notion that it is a sin to use their Reason, even in considering the grounds

of Faith. If this surmise is correct, it justifies an attempt to draw attention to the error and the ambiguity which are capable of such disastrous effects.

My investigation of the question proceeded somewhat as follows: I understood that there might be a difference between the meaning of a word taken *simpliciter* (simply) and the meaning of the same word taken *secundum quid* (under conditions): and it appeared to me that, when Reason was rightly contrasted with Faith, the word Reason was used not *simpliciter*, but very definitely *secundum quid*—the ‘quid’ (or conditions) in this case being the violation of Reason’s laws. And so the Vice-Principal seemed to have fallen into the fallacy of taking what is often and rightly said about the abuse of Reason, and of applying it to the legitimate use of Reason—to the use of it for one of the purposes for which God created it, namely, for the investigation and recognition of the grounds of Faith.

In order to judge of the correctness, or otherwise, of this conclusion, it is necessary to define the meaning of ‘Reason taken simply,’ and also the meaning of ‘Reason’s laws.’

‘Reason,’ used simply, denotes not a process, nor a habit, but a faculty; a faculty intrinsic to human nature. It is the higher cognitive faculty of man, by the possession of which man is, in his essential nature, differentiated from the other animals and made like to the angels. This human cognitive faculty is rightly called intellect, because by the use of it man is able to have the same kind of knowledge which the angels have, that is, intellective knowledge, as distinguished from the other kind of knowledge, which we also have in common with the other animals, namely, sensitive knowledge. But our intellective faculty is not pure intellect, as the angelic intellect is. It differs from the angelic intellect in that it has no ‘innate ideas,’ but obtains all its general notions, in the first instance, from particular material things, which the soul perceives through its bodily senses.<sup>1</sup>

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<sup>1</sup> See St. Thomas, *Sum. Theol.*, P. i. q. 55, art. 2.



The process is the following: Material things make impressions upon the outer senses, by causing vibrations in the nerves. By the action of the inner senses, of which the brain is the organ, images, or brain-pictures, of these material things are formed (and reproduced on occasion) in the brain; and thus sensitive knowledge is acquired. By abstracting from these brain-pictures the ideas which God embodied in the material things when He created them, man is able to acquire intellective knowledge, first of the material things, and thence, by the negativo-positive process, of the immaterial things which are analogous to them,—analogy, in this case meaning a partial likeness between things of a different nature, such as there is, for instance, between a man and his photograph. A photograph cannot think, or speak, or act, in the literal sense of the words; it has not the nature of a rational animal; but it would be absurd to say, that there is no likeness between the photograph and the man whose likeness it is. By looking at the photograph we are helped to conceive some idea of the man whom it represents; and similarly, by contemplating our ideas of material things, we are able to rise to some conception of immaterial things that are like them in some respects—like them especially in that both are substances, but unlike them in that the one kind are material and the other kind immaterial, or spiritual. From the shadow of a tree we can gather some notion of what the tree is like, though the differences between the tree and its shadow are very great. In the same way, from a material substance we can gather some notion of an immaterial substance, the immaterial substance being the more real, and the material substance the more shadowy. By this use firstly of abstraction, and then of analogy, we are able to attain a kind of knowledge very similar to that possessed naturally by the angels, though our knowledge is acquired in another way than theirs. Moreover, this kind of knowledge is also a distant likeness of the knowledge which God has, or rather is. It is by the possession of the faculty for acquiring intellective knowledge of immaterial realities that man is by nature more like to God than any other

creature on this earth, though, in his own nature, he is less like to God than the angels, who are pure spirits, and are not compounded of spirit and matter, as men are.

Now Reason, taken simply, signifies this intellective faculty of man's nature, and it is because he possesses this faculty that 'a man' is defined as 'a reasonable animal,' that is, as an animal possessed of Reason. Reason in this phrase meaning nothing more and nothing less than 'human intellect.'

If it be asked what is meant by the 'negativo-positive method,' the following description of it may be quoted from Father Boedder's *Stonyhurst Manual of Natural Theology* (page 29):—

We first think of finite things according to their own being, not paying attention to their limitations: then, comparing less perfect finite things with more perfect, we become aware of their limitations; finally, thinking of all possible finite perfections united in one Being, and denying all limitations, which are necessarily proper to them in finite beings, we form a negativo-positive concept, as it is called, of the Infinite. In this manner we do really think of the infinitely perfect Being, although we think of It in a very inadequate way.

Father Rickaby also says, *First Principles of Knowledge* (p. 316):—

By virtue of its reflective power, the human intellect has a mode of coming to agreements with itself, which wonderfully serve the purposes of knowledge. Thus, being finite, it cannot directly represent to itself what an infinite object is; but by a contrivance it can obtain sufficiently an idea of the infinite, for it knows what limited being is, and it has only to deny the limit, in order to form a true, though imperfect, conception of the infinite.

It is by this method also that we conceive ideas of particular divine attributes, such as infinite Wisdom, Goodness, Power, Justice, Love, Beauty, etc., first thinking of those attributes with their limitations, as seen in men, and then thinking of them without any limitation whatever.

The teaching of St. Thomas on the subject of the human intellect, or Reason, may be quoted as follows<sup>1</sup> :—

Augustinus dicit quod ‘illud, quo homo irrationabilibus animalibus antecellit, vel est ratio, vel mens, vel intelligentia, vel si quo alio vocabulo commodius appellatur.’ Ratio ergo, et intellectus, et mens sunt una potentia.—Augustine says, that ‘that thing, by which man excels the irrational animals, is either reason, or mind, or intelligence, or if there is any other word by which it is more conveniently designated.’ Therefore reason and intellect and mind are one faculty.

And, further on :—

Alia animalia sunt ita infra hominem quod non possunt attingere ad cognoscendam veritatem quam ratio inquit. Homo vero attingit ad cognoscendam intelligibilem veritatem quam angeli cognoscunt, sed imperfecte: et ideo vis cognoscitiva angelorum non est alterius generis a vi cognoscitiva rationis, sed comparatur ad ipsam ut perfectum ad imperfectum.—Other animals are in this way below men in that they are not able to attain to knowing the truth which reason seeks for. Man, however, does attain to knowing intelligible truth, which angels know, but imperfectly: and therefore the cognitive faculty of angels is not of a different kind from the cognitive faculty of reason, but is compared to it as the perfect to the imperfect.

This teaching of St. Thomas is all the more emphatic, because the question proposed is: ‘Utrum ratio sit alia potentia ab intellectu?’—‘Whether Reason is a faculty different from Intellect?’ and the conclusion is ‘Reason and Intellect in man are the same faculty.’ Then in the explanation he adds: ‘Respondeo dicendum quod ratio et intellectus in homine non possunt esse diversae potentiae.’—‘I answer that it is to be said that Reason and Intellect in man cannot possibly be different faculties.’ In a later article<sup>2</sup> he uses the identity of Reason and Intellect as an illustration of the identity of will and free choice. The question proposed is: ‘Utrum liberum arbitrium sit alia potentia a voluntate?’—‘Whether free choice is a faculty

<sup>1</sup> *Sum. Theol.*, P. 1<sup>a</sup>, q. 79, art. 8.

<sup>2</sup> *Sum. Theol.*, P. 1<sup>a</sup>, q. 83, art. 4.



different from will?' and the conclusion is 'Sicut ratio et intellectus non duae, sed una potentia sunt : ita voluntas et liberum arbitrium non duae sed una tantum potentia sunt.'—'As Reason and Intellect are not two faculties but one, so will and free choice are not two faculties but only one.'

It will be easier to understand how intellectual knowledge arises in the soul, if we recall the teaching of Scholastic Philosophy about ideas. 'Ideas,' in common parlance, may be taken to mean either brain-pictures produced by the imagination, and capable of being copied with pencil and paint-brush, or they may signify, on the other hand, intellectual concepts of such things as cannot be visualized or pictured, whether they are substances or attributes ; such things as Wisdom, Goodness, God, the Soul of Man. But, in the stricter acceptation of the word, 'ideas' can be used to signify only the latter, and such mental representations of the natures of material things as may be clearly contrasted with reproductions of the outward appearances of them perceptible by the bodily senses. Taken in this stricter sense, 'ideas' differ essentially from pictures of the imagination, especially in that they exist in the soul, while brain-pictures are attitudes of the material brain. Now Scholastic Philosophy teaches, that the ideas of all possible things existed from eternity in the mind of God. It is self-evident that it must be so. An intelligent maker must have the idea of a thing before he makes the thing. For instance, Marconi must have had the idea of a wireless telegraph before he made one ; and he must have had an intellectual idea of its nature and purpose before he had a brain-picture of its outward appearance. God is an intelligent Creator, therefore He must have had an idea of everything that He determined to create. But a new idea is a change, and there can be no change in God. Therefore the ideas of all the things that God can ever create must have been in His mind from all eternity. These ideas in the mind of God were *ante res*, that is, before the things were created, and were the 'exemplary causes,' or patterns, of the things that were created. When God created material

things, He embodied His ideas in them (as Milton embodied his ideas in the words of *Paradise Lost*, and Sir Christopher Wren his in the arches and dome of St. Paul's Cathedral). We, by the use of our intellect, which was created in the likeness of God the Son, are able to abstract from our brain-pictures of material things intellectual ideas of them, which are much more like the ideas of them which were always in the mind of God, than are the brain-pictures which we form of them by the imagination, which is an animal faculty, and not a faculty peculiar to man ; a faculty, too, which is not possessed at all by the angels. Thus ideas, in the strict sense, existed first in the mind of God (*ante res*) ; after that they existed in the things created, as their nature or essence (*in rebus*) ; lastly, they exist in the minds of men who understand them (*post res*). This mental act of conceiving intellectual ideas, as contrasted with sensitive ideas, or brain-pictures, is the beginning of reasonable or intellectual knowledge.

It is important to notice here the difference between Reason and Reasoning. Reasoning is not a faculty, but a process. It is a complex operation of the faculty, Reason. The three operations of Reason are : (1) simple apprehension, or the formation of abstract ideas, as described above ; (2) judgment, or the eliciting of mental propositions about those ideas and the external things of which they are the mental likenesses ; (3) reasoning, or the passing of the mind from one mental proposition to a second, or from two taken together to a third. Thus, reasoning is only one of the operations of the faculty, Reason. To suppose that reasoning is one of man's faculties would be like thinking that shooting is one of man's limbs. Reasoning is a complex operation of man's mental faculties, as shooting is a complex operation of his bodily faculties.

Reason, then, taken simply, is a faculty of man's nature, and, like every other faculty and every other part of the universe, has its own proper laws. Moreover, these laws of Reason are part of the eternal law.

Now, what is law ; and what is the eternal law ? A law is an idea of order, or the expression of an idea of order.

A parliamentary law is the expression of an idea in the minds of the legislators ; an idea of the order to which the people should conform under certain circumstances. To obey the law is to act according to that idea of order, and so to preserve the order thus conceived of. The law is not the order itself, but the idea of it. And in this case the idea is the cause of the order. A physical law is the idea which scientists have conceived of the order in which material changes have been observed to take place, and the idea in their minds is not the cause, but the consequence of the order. If, however, they have conceived rightly, then the idea in their minds is a reflection of the idea, which God had before creation, of the way in which He intended the physical forces to act, and that Divine idea was the cause of the order. Similarly, a law of Reason is God's idea of how the intellectual faculty of man is intended by Him to act. Thus, to think according to the laws of Reason is to use our intellective faculty according to the eternal law, or, in other words, to use it in the way in which God always intended us to use it.

God wills that we should live by Faith. This cannot possibly mean that God wills us to abdicate our prerogative as reasonable creatures, and to act as unreasonable animals, whose acts are controlled not by Reason (which they do not possess), but by instinct, or sensitive judgment, which is one of the inner senses. Neither can it mean that God wills us to violate the eternal law by using our Reason in opposition to the laws which He has laid down for it. On the contrary, he who lives by Faith uses his Reason in a fuller and more perfect way, a way more according to the laws of Reason, than he who lives without Faith.

This last proposition may be expanded as follows : In the first place, an act of Faith is inevitably (in part) an act of the intellect or Reason. It is not exclusively an act of the intellect, but it is so prominently. In order that an act of Faith may be elicited, the will must command the intellect to assent, but the assent is an intellectual act—an act of the intellect or Reason done at the command of the will. Moreover, before the will can prudently, i.e.,



rightly, command the intellect to assent, the intellect must have judged reasonably that this assent ought to be given. For Faith includes the reason why we assent as well as the proposition to which assent is given. To\*have faith, is to be sure because some one says so. In the case of human faith, faith is to be sure, because some man who is trustworthy says so ; in the case of Divine Faith, Faith is to be sure, because God says so. But in both cases, before this can happen, there must be acts not merely of Reason, but even of that third operation of Reason, which is called reasoning : we must have arrived at the conclusion, either implicitly or explicitly, in the one case, that the man, or the group of men, is trustworthy, and, in the other case, that God exists and has made this declaration. If He did not exist, He could not make a declaration. This is self-evident. Hence, certitude of God's existence must precede an act of divine Faith. This certitude need not be reflex or self-conscious ; we need not explicitly advert to the fact that we are certain ; but the certitude must be there in such sort that, if the existence of God were denied, the mind would at once register an indignant protest. To have certitude of God's existence, we must have an idea of God. But even the idea of God is not an 'innate idea' ; it is obtained by the exercise of our Reason upon the things that are seen, and the propositions, 'God exists,' and 'God has declared this,' are not self-evident propositions, but conclusions arrived at by inference or reasoning, implicit or explicit, from self-evident propositions combined with observed facts. In the case of human faith, we must have arrived by inference at the conclusion that the witness is trustworthy, before we can prudently make an act of faith in what he testifies ; and, in the case of divine Faith, the certitude of God's existence, and of the fact that He has spoken in this particular way, is a pre-requisite.

Thus, the pre-requisite of an act of Faith, human or Divine, is an operation of the intellective faculty or Reason, by which we become sure of the trustworthiness of the witness. This, however, is not all that Reason has to do

in the matter. Reason has also to ascertain that the witness has made this assertion, and to infer from the two premisses (1) that the witness is trustworthy, and (2) that he has made this assertion, the objective certainty of the conclusion (3) that this proposition is true.

In arriving at this conclusion, the major premiss in the inference is,

A. All propositions testified by this authority are true.  
The minor premiss is,

B. This proposition is testified by this authority.  
The conclusion is,

C. Therefore this proposition is true.

This inference is a conscious or unconscious process of the intellective faculty or Reason, and is a pre-requisite to every act of Faith, human or divine. Thus an act of divine Faith involves a multiplied use of Reason, as follows:

(a) The intellect apprehends or conceives the idea of God, using abstraction and the negative-positive method of forming ideas ;

(b) It judges that this idea is a likeness of an objective being, who really exists outside the mind, and who cannot deceive or be deceived ;

(c) It judges by inference from a host of observed facts taken together with self-evident first principles, that God has made this particular declaration ;

(d) Using the judgments (b) and (c) as premisses of a further syllogism, it draws the conclusion ;

(e) Therefore this proposition is true ; and the still further inference or conclusion ;

(f) Therefore I ought to believe it, or assent to it.

After that, the will comes in and gives the required command to the intellect, which thereupon embraces and adheres to the proposition, as a truth of which it has no doubt.

In the above analysis of the intellectual process, which precedes the act of Faith, the step (c) requires further amplification, since in the method of inference, by which this judgment is formed, consists the difference between the

faith of a Catholic and the faith of a heretic. The heretic judges by intrinsic evidence respecting each separate article of Faith, and each separate definition, that God has affirmed this ; while the Catholic judges by intrinsic evidence that God has made the Catholic Church infallible, when she speaks by a declaration binding all her members under penalty of exclusion from her fold ; and then, having become certain of the Divine authority of the Church, he judges by extrinsic evidence that this or that particular proposition is true. The heretic ‘ chooses ’ particular propositions from among those presented to him, according as he thinks the intrinsic evidence, that God has revealed each, is sufficient or otherwise ; while the Catholic judges by intrinsic evidence that the Church is Christ’s Body, and then, as to particular propositions, he judges by extrinsic evidence that they must be true, if Christ through the Church affirms them, and must be false, if Christ through the Church condemns them. He understands that the extrinsic evidence of Christ speaking through the Church is the only kind of evidence that can reasonably be trusted in judging of particular propositions concerning God and the unseen world, whether present or future.

So far, nothing has been said about the gift of Faith, or the ‘ supernatural gift of God, by which we are enabled to believe without doubting whatever God has revealed.’ The statement that the act of Faith is an act of the human intellect, is in no way at variance with the statement that the intellect cannot elicit this act without the grace of God. To say that intellect is not intellect, when it is invigorated by supernatural grace, is like saying that Elias was not Elias, when he went to Horeb in the strength of his supernatural meal.

In contemplating this supernatural gift, we have to consider :—

(a) *Its Necessity*.—A man cannot make an act of divine Faith without it, because to conceive of God aright, and to draw right conclusions in supramundane matters, is beyond the power of man’s unassisted intellect, especially since it has been darkened by the Fall. Moreover, grace is needed



to excite the 'pious affection of the will.' But this necessary assistance is never refused to any who seek it aright. 'Facientibus quod in se est Deus non denegat gratiam.'—'To those who do what is in their power God does not refuse grace.' And thus the reasonable inference, that God exists and has said this, results in an act of divine Faith, by the assistance of the supernatural gift.

(b) *Its Nature*.—This gift is an 'infused virtue.' It is not a faculty, but a virtue, that is, a good habit of a faculty. Now a habit is an acquired tendency, by which a faculty, that of its own nature is able to act in this way or that, is enabled easily at will to act in a particular manner. A virtue is a habit that makes it tend easily to act well, and a vice is a habit that makes it tend easily to act ill. Thus a virtue modifies some faculty, and raises it to greater perfection. The faculty which the gift of Faith modifies and perfects is Reason, or human intellect.

(c) *Its Condition*.—It is implied in what has been said, that, for an act of divine Faith to be elicited, there is needed not only the supernatural virtue perfecting subjectively the Reason, or intellective faculty. There is needed also an external objective supernatural witness: since Faith (whether human or divine) is essentially assent to some proposition because some witness asserts it. An act of Faith involves the acceptance of a witness; and an act of divine Faith involves the acceptance of a divine witness. But the witness cannot be accepted, if he does not exist. Hence the necessity of a supernatural witness is evident. For the present purpose, however, it is sufficient to glance at this in passing. The point that we are considering is, that the act of Faith is essentially an act of the human intellect or Reason, and that the supernatural gift of Faith is not a faculty, but an infused virtue perfecting the faculty of Reason; or, in the words of St. Thomas, that 'faith is in the intellect as in its subject.'

The description here given of the nature of Faith was gathered chiefly from St. Thomas Aquinas, but partly also from Cardinal Mazzella's book, *De Virtutibus Infusis*; it will, therefore, be convenient to give one or two longer

quotations on the subject from the Angelic Doctor,<sup>1</sup> and also from the eminent Roman theologian :—

Cum credere sit actus intellectus, necesse est ut fides, quae proprie hujus actus principium est, sit in intellectu tanquam in subjecto.

Respondeo dicendum quod, cum fides sit quaedam virtus, oportet quod actus ejus sit perfectus. Ad perfectionem autem actus, qui ex duobus activis principiis procedit, requiritur quod utrumque activorum principiorum sit perfectum. Non enim bene potest secari, nisi et secans habeat artem, et serra sit bene disposita ad secandum. Dispositio autem ad bene agendum in illis potentiis animae, quae se habent ad opposita, est habitus. Et ideo oportet quod actus procedens ex duabus talibus potentiis sit perfectus habitu aliquo praeexistente in utraque potentiarum. Dictum autem est supra quod credere est actus intellectus, secundum quod movetur a voluntate ad assentiendum. Procedit enim hujusmodi actus a voluntate et ab intellectu; quorum utrumque natum est per habitum perfici secundum praedicta. Et ideo oportet quod tam in voluntate sit aliquis habitus quam in intellectu, si debeat actus fidei esse perfectus; sicut etiam ad hoc, quod actus concupiscibilis sit perfectus, oportet quod sit habitus prudentiae in ratione et habitus temperantiae in concupiscibili. Credere autem immediate est actus intellectus, quia obiectum hujus actus est verum, quod proprie pertinet ad intellectum. Et ideo necesse est, quod fides, quae est proprium principium hujus actus, sit in intellectu sicut in subjecto.

The above may be translated as follows :—

Since to believe is an act of the intellect, it follows that Faith, which is the source of this act, must be in the intellect as in its subject.

I answer (to objections) that, since faith is a virtue, its act ought to be perfect. Now, for the perfection of an act, that proceeds from two active principles, it is required that both of the active principles should be perfect. For sawing cannot take place well, unless both the sawyer has skill and the saw is in a good condition for sawing. Now, the condition for acting well in those faculties of the soul, which can act in opposite ways, is habit. Therefore, an act proceeding from two such faculties needs to be perfected by some habit existing already in both of

<sup>1</sup> St. Thom., *Sum. Theol.*, P. 2<sup>da</sup>, 2<sup>da</sup>, q. 4, art. 2, conclusio.

the faculties. But it has been said above, that to believe is an act of the intellect, according as it is moved by the will to assent. For an act of this kind proceeds from the will and from the intellect, each of which is designed by nature to be perfected by habit, as has been said above. And therefore there must be some habit both in the will and in the intellect, if the act of faith is to be perfect; just as, for an act of desire to be perfect, there must be a habit of prudence in the reason and a habit of temperance in the appetite. But to believe is immediately an act of the intellect, because the object of this act is truth, which properly belongs to the intellect. And therefore it follows, that faith, which is the proper source of this act, is in the intellect as in its subject.

In another article on the same question, the great Dominican defines Faith as 'the perfection of intellect,' and it has already been shown that he declares intellect in man to be the same faculty as Reason.<sup>1</sup>

Cum autem fides sit perfectio intellectus, illud per se ad fidem pertinet, quod pertinet ad intellectum. Quod autem pertinet ad voluntatem non per se pertinet ad fidem, ita quod per hoc fidei habitus possit diversificari. Distinctio autem fidei formatae et informis est secundum id quod pertinet ad voluntatem, id est, secundum caritatem, non autem secundum id quod pertinet ad intellectum. Unde fides formata et informis non sunt diversi habitus.

The English of this is as follows:—

Since faith is the perfection of intellect, that belongs essentially to faith which belongs to the intellect. But what belongs to the will does not belong essentially to faith, so that by it the habit of faith can be differentiated. Now, the distinction between living and dead faith is according to that which belongs to the will, that is, according to charity, not according to that which belongs to the intellect. Hence living and dead faith are not different habits.

The truth that God is ready to give grace to all, or, in other words, that 'God does not refuse grace to those who do what is in their power,' was often in the mouth of Leo XIII. This is not surprising in one who was so great

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<sup>1</sup> *Sum. Theol.*, P. 2<sup>da</sup>, 2<sup>ae</sup>, q. 4, art. 4.



an admirer of St. Thomas. In the *Summa Contra Gentiles* (lib. iii. cap. 159), we read :—

Quum hoc sit in potestate liberi arbitrii, impedire divinae gratiae receptionem vel non impedire, non immerito in culpam imputatur ei qui impedimentum proestat gratiae receptioni. Deus enim, quantum in se est, paratus est omnibus gratiam dare ; ‘Omnes’ enim ‘homines vult salvos fieri, et ad agnitionem veritatis venire,’ ut dicitur (1 Tim. ii. 4). Sed illi soli gratia privantur qui in seipsis gratiae impedimentum praestant ; sicut, sole mundum illuminante, in culpam imputatur ei qui oculos claudit, si ex hoc aliquod malum sequatur, licet videre non possit, nisi lumine solis praeveniat.

In English it runs thus :—

Since it is in the power of free-will to hinder the reception of divine grace or not to hinder it, it is not undeservedly imputed as a fault to him who offers a hindrance to the reception of grace. For God, so far as it depends upon Him, is ready to give grace to all ; for ‘He wishes all to be saved, and to come to the knowledge of the truth,’ as is said (1 Tim. ii. 4). But those only are deprived of grace, who in themselves offer a hindrance to grace : just as, while the sun illuminates the world, it is imputed as a fault to one who shuts his eyes, if any evil follows from it, although he cannot see without the light of the sun going before.

It might seem sufficient to have quoted these passages from the Angelic Doctor, but it may possibly make the matter still clearer, if a specimen is given of the teaching of Cardinal Mazzella, who was Professor of Theology under Leo XIII. in the Gregorian University at Rome. Like St. Thomas, he teaches that the act of Faith is an act of the intellect done at the command of the will, but he adds, that the will cannot rightly give this command, unless the intellect has previously judged that this command ought to be given. In his treatise on *The Infused Virtues* (Disp. iii. art. viii. sect. 2.), the Cardinal writes :—

Ad eliciendum divinae fidei assensum, necessario praerquiritur pia affectio seu imperium voluntatis ; atqui voluntas nequit fidei assensum imperare, nisi revelatio ut credibilis proponatur ab intellectu : ergo ad credendum praerquiritur iudicium de credibilitate. . . . Nam voluntas fidem imperans debet

esse prudens ; secus nec esset honesta, nec supernaturalis ; nec ullus certe teneretur fidem imprudenter imperare. Atqui voluntas non prudenter imperaret fidem, si iudicium praecedens de credibilitate non esset certum. Ergo hoc iudicium debet esse certum.

In English :—

In order that the assent of divine faith may be elicited, there is of necessity required beforehand a pious affection or command of the will ; the will, however, cannot command the assent of faith, unless the revelation be put before it as credible by the intellect : therefore, in order that one may believe, there is required beforehand a judgment as to the credibility. . . . For the will commanding faith ought to be prudent ; otherwise it would be neither honest nor supernatural ; and certainly no one would be bound to command faith imprudently. The will, however, would not command faith prudently, if the preceding judgment as to the credibility was not certain. Therefore this judgment ought to be certain.

It is clear, then, that Faith must be reasonable, or in conformity with right reason, and that it is only the misuse of Reason that is at variance with Faith. It remains therefore, to show, in what way the position of High Church Anglicans is at variance with right reason ; or, in other words, is in conflict with the laws of thought, which are part of the eternal law. A few examples may be given. Nothing is more contrary to right reason than to hold contradictories together at the same time. But the High Church Anglican is obliged to hold together many pairs of contradictories at the same time. For instance :—

I. One pair of contradictories concerns the Unity of the Church. As a High Churchman he repudiates the Protestant doctrine that the Church's unity is only invisible, and he believes in the visible oneness of the Church. He knows that at the Last Supper our Lord prayed ' that they all may be one . . . that the world may believe that Thou hast sent Me,' showing that He spoke of a oneness which could be seen by the world, and which was to be among the instruments of the world's conversion, and not merely a final result to be attained when the course of this world was

completed. And yet, while believing theoretically in this visible oneness, the High Church Anglican is obliged also to hold that the unity is only invisible ; for, no sane person could say to himself that the Anglican communion and the various Eastern schismatical bodies are visibly one with the Church that is governed by Pius X., or with each other. He holds together the contradictories, that the Church's unity is visible, and that the Church's unity is not visible. It is no reply to allege, that there is an invisible unity of those who belong to the soul of the Church, whether they belong to the body of the Church or not ; for that is acknowledged by all, both Catholics and Protestants alike ; and the difference between the Anglican High Churchman and the mere Protestant is, that the former believes in the visible unity of the Church as the Body of Christ. At the same time, by his position, he practically repudiates this visible oneness, and adopts the attitude of a mere Protestant.

II. Another pair of simultaneous contradictories concerns the unity of the Faith, taking ' the Faith ' to mean ' the Faith once delivered to the saints ' (Jude i. 3), or the sum total of the truths which Christians are bound to believe. It is the principle expressed in the phrase ' in necessariis unitas.' The High Churchman, as a High Churchman, holds that some truths are ' necessary,' or *de fide*, and also that among those necessary truths are the doctrines of Sacramental Absolution and of the Real Objective Presence of our Lord in the Sacrament of the Altar. But he is obliged to hold, at the same time, that these truths are not ' necessary,' and not *de fide*, since the Bishops of the Established Church only tolerate them as private opinions, and treat as insubordinate those clergy who in word and deed proclaim that they are essential parts of the Christian Faith. There has never been an Anglican Bishop who refused to hold communion with the Bishops and clergy of the Establishment who denied them ; or, in other words, no Anglican Bishop ever held them to be ' necessary.' Moreover, it is notorious, that before the Tractarian Movement hardly a single soul in the whole Anglican communion believed them ; certainly no one held them to be ' necessary.'



Thus the High Church Anglican holds at one and the same time that these doctrines are *de fide*, or 'necessary,' and that they are not *de fide* and not 'necessary'—a most direct and patent contradiction.

Now, if it were to be argued that the Christian Faith contains mysteries that we cannot explain, and propositions which we cannot reconcile, such a plea in the present case would show confusion of thought between the nature of a mystery and the nature of a contradiction. A mystery is the partial revelation of a truth which our minds are not able fully to comprehend; and the revelation is made by means of statements which we cannot completely reconcile, because our knowledge of that which is thus partially revealed is at present incomplete. No one, however, can say that it is beyond the power of any human mind to comprehend the meaning of 'visible unity,' or the meaning of 'necessary,' as applied to a doctrine, namely, that the belief of that doctrine is an indispensable condition of being a member of the Church. On the other hand, the doctrine that God is Three and yet One is a mystery, but is not a contradiction. There is no contradiction there; for we do not say that He is not Three, or that He is not One. We say that He is One in essence and Three in Person. To say that our Lord is Divine and yet human is not a contradiction, though there is much in the manner of the Hypostatic Union that we cannot explain. There cannot be a contradiction, even in words, without a negative; still less can there be one in thought, and there is no negative here. So with free-will and predestination. There is no real contradiction, though we cannot define the mutual operation of the Divine Will and the human will as clearly as we, perhaps, might wish. There is no real contradiction, for we do not deny that salvation depends upon the will of God, nor do we deny that it depends upon the will of man. But in the statements pointed out above, about the Unity of the Church and the Unity of the Faith, there is no mystery at all; but there is a most direct and completely intelligible contradiction, which is a serious violation of the laws of thought.

As a matter of fact, the High Church Anglican believes some of the Catholic doctrines, such as those above specified, not because the Anglican Church says they are *de fide* (for she plainly does not say so ; she only tolerates them as pious opinions), but because the Church in communion with the Pope says so, and many of the schismatical Eastern bodies say so. But then, the High Church Anglican is involved in the supreme absurdity of accepting their testimony, when they teach about the validity of valid sacraments, and yet rejecting their testimony, when they deny that Anglican sacraments are valid. This is an inexcusable violation of right reason. If he believes these doctrines simply because he sees them in the Bible, without the authority of any Church, then, on the one hand, he is acting on the Protestant principle of Private Judgment, and, on the other hand, in order to act on that principle reasonably, he ought to be able to see in the Bible not only that valid sacraments have this efficacy, but also that the Anglican sacraments are valid. No one, however, can suppose that the Bible says anything directly about Anglicans, or Anglican sacraments, as such. Thus in every way his position is unreasonable.

Now, there are many Anglican High Churchmen who see clearly, and admit frankly, that their position is thus wholly unreasonable ; but they persuade themselves that they are not, on that account, bound in conscience to leave their position, as Anglicans, because, they say, Faith is a faculty quite separate from Reason, and is often opposed to it ; and thus, by this deadly fallacy, they are kept out of the Holy Catholic Church.

T. FREDERICK WILLIS.

## A NOVELIST'S SERMONS—II

## LOYALISTS AND PATRIOTS

A CATHOLIC may be a good Conservative or Tory, and a Catholic may be a good Liberal or Radical : and we do, in fact, see excellent Catholics in all these political camps. And, undoubtedly, a Catholic may be a most loyal patriot : a good deal of ink has been used to prove, what really needs no proof, the loyalty of Catholics and their patriotism. But it is not to be forgotten that whether Radical or Tory, Republican or Monarchist, a Catholic must be something greater than all or any of these things : and that, however 'loyal' he may be, and however 'patriotic,' there is in him a principle deeper than either what is called loyalty or what is commonly meant by patriotism.

Some false accusations brought against Catholics have their root in a suspected truth, that is, in a fact whose existence is instinctively divined by those who do accuse, but whose significance is misunderstood by them and falsely stated. Patriotism is assumed, by those who arrogate to themselves a monopoly in it, to be a civic virtue so important that he who lacks it must, as a citizen, be worthless and indeed dangerous. But, in so far as it is a real virtue at all, it is more than civic, and only one phase or expression of a much wider and more far-reaching virtue, that of Christian charity. It does not consist solely in the love of country : it begins, like charity in the proverb, at home. The forgetfulness of this leads to an inflated pseudo-patriotism, which is so far unreal that it has no real basis, but hangs in the air, neither linked to heaven or logically supported by earth.

The first step in genuine patriotism must consist in love of family and home, and its first efforts must tend to the true good of home and family : in this each individual of the family must start with himself, not as seeking for



himself the *best goods*, but as aiming at his own *best good*: for this does not imply selfishness, but the reverse: the *best goods* are temporary in importance and unnecessary, but the *best good* is of eternal necessity and indispensable: in the attainment of it by each human being consisting the Divine Plan in his regard. Thus each member of the family must aim at his own eternal good, not jostlingly, so as to interfere with the attainment of the same good by every other member of the family, but so as to help every other member to attain it. And, so far is this from *implying* jostling or rivalry that it implies the opposite: as there are only so many temporal 'goods' on earth it is true, in theory, that the more one gets the less another can get; but, as the best good is not thus limited, it is not true that the harder I strive for it the less likely is it that you can attain it: on the contrary, every sincere effort of mine must help you.

To the pseudo-patriot this appears nonsense, and your pseudo-patriots are commonly but indifferent members of families, and very unsatisfactory heads of them, as they are commonly far from being exemplary as individuals.

The State, however, consists only of so many families, just as the family itself consists only of so many individuals; and it is because of the frequent neglect of this principle of ours by the State itself that the State suffers. Euclid tells us that the whole is greater than its part, but no whole can be greater than the sum total of its parts; and no whole can be better than the parts of which it consists.

If the members of a family are severally rotten, the family will be rotten; if the families in a State are rotten, the State can be no better. The priest who tries to make each individual in his charge better is a finer patriot than the doctrinaire politician who vapours about the good of the State, neglecting his own and that of his family. There is no such thing as the good of the State apart from the good of all the individuals in it.

After the family come groups of families: hamlets, villages, towns, cities, counties, provinces; and people can be, and have been, furiously 'patriotic' about these: the

patriotism of the Greeks mostly confined itself to what would seem to us very narrow limits. In much later times patriotism in Italy was much more of this sort than of that which concerns a whole 'country' in the English sense of the word. In Italy a man speaks of his village as his *paese*, his country, and he means it: not merely that *paese* is Italian for village, which it is not. A Florentine or a Pisan was, and largely is, 'patriotic' for Florence or Pisa, and only in a much cooler degree for Italy; a Roman had, and has, the same feeling; only in him it had not the same twang of localism, because he felt that Rome was the Metropolis of the world: to think of it as the capital of Italy was not an enlargement of his conception but a stunting of it and a narrowing. Until recently, however, Italy was not, even politically, one country: and at present it is only so politically and in theory. Whereas Spain, France, England, Ireland, Scotland, Wales, have for many centuries been each a country single in itself, though some of them are joined together politically. In those countries, therefore, the notion of patriotism has been less local, and wider, and also less compact and intense.

In this broader sense true patriotism is still only a part, and an expression, of the Christian rule of charity, viz., the obligation of loving: less easy, perhaps, because less intimate and more theoretical. The members of our family we *see*, even the members of our native town or village we know, or may know, by sight; but we cannot have personal knowledge of all our compatriots, or personal relations with them: the charities of daily life are not called into play in their regard, so that to some extent we are endeavouring to love an idea.

To love is, none the less, the real duty of patriotism, whereas, in the mouths of many of its noisiest professors, the point would rather seem to be to hate. It is not, with them, so much a question of loving their country as of disliking, envying, or despising other countries. Such others as appear to claim the dignity of rivals they vilify and slander; the rest they ignore as beneath notice. This patriotism would seem to be composed largely of vanity

and largely of spite. The vanity is not hard to understand, for your patriot of this kidney has often little in himself on which to ground that pleasant sensation, and brags of the greatness (i.e., bigness) of his country to blind the public to his own littleness.

Beyond the idea of country this sort of patriotism can, obviously, not reach. It could not occur to these patriots that the virtue of which patriotism is a part has a further scope still: that, just as every individual is a unit in the family, and every family a unit in the State, so the State itself is only a larger, less interesting, though more 'important,' unit in the final unit of the human family of which God is the Head.

As things now stand probably the Catholic Church alone maintains this wide view. In the despised Middle Ages it was of general acceptance, because when the huge, but artificial and material, unity of the Roman Empire disappeared, it was succeeded by the vaster and unmaterial unity of the Church. The split up of this union, whereby a single Christendom was changed into a divided Europe, did not take effect till the 'Reformation': which substituted for the splendid and noble idea of a universal Christian family, united under one father, the petty and selfish idea of rival nationalities under a group of mutually suspicious step-brothers, and the makeshift compromise of a balance of power, which none of those in the balances would agree to in his own case.

The present writer has been accused of a 'bee in his bonnet,' that bee consisting of a rooted conviction that the Catholic Church is always right: if one must have something in one's bonnet, a bee, that after all must make a little honey, should be better than a wasp that can only sting the adjacent head, and produce none of Bacon's 'sweetness and light.'

The Catholic Church must have the broader idea of patriotism, and always have it, because she *is* Catholic. The Hebrew Church treasured the truth of One only God as the family secret of one nation; the Catholic Church proclaims all truth as the equal birthright of all mankind,



and refuses to house herself in any one nation, or call herself by the name of any one country. Countries arise upon the world's great stage, and play their parts, and go : empires fatten, fall apoplectic, and expire, like the empires whose heirs they are ; the Church cannot bind herself to what is mortal, and has its allotted death as surely as it had its appointed birth. So she sits, not coldly outside the nations, but serenely above them, gathering them into her arms if they will come, yet never isolated by the bounds, or by the ' interests,' of any one of them.

This the world divines, by an instinct so unwelcome that it harbours it as a suspicion and an accusation, and broods over it as a grudge. The instinct is a true, involuntary intuition : the statement of the suspicion a slander, and the grudge envious and malicious. The Church has always been higher than the world : and a sense of inferiority will ever make the mean spiteful.

' A Catholic cannot be a genuine patriot.' The accusation means that every genuine Catholic must be something more than a mere ' patriot '—because the boundaries of the largest empire cannot bind his patriotism, or forbid it range ' as far as God has any land.'

Was there ever a finer patriot than St. Gregory the Great, or a more papal Pope ? He did more not only for the part of it he actually governed, but for all Italy, than any man of his age : but he was never a mere Italian. The nations were his inheritance and the uttermost parts of the earth his possession. Thus his eye could range far beyond the bounds of his own loved and lovely land to the fog-girt island lonely in the cold seas of the north, that had been Christian Britain once and was heathen England then, and become its apostle, though his own place must be still by Peter's tomb among the Seven Hills beside the yellow river.

There may have been instances, enough and to spare, of Catholics whose patriotism has been of the narrower sort, and who have vaunted themselves of it—because there have always been Catholics whose Catholicity has been skin-deep, and because it is the perverse tendency of man to

value himself on the wrong things. Our own trivial achievements and personal, private distinctions are apt to strike us more than what is greatest in us, because what is greatest is common and not confined to ourselves. The greatest thing about every Catholic is that he is one ; but the smaller he is in himself the likelier is it that he will pride himself on some small thing he has to himself, or shares with but few beside. The greater he is in himself the more will he think of that which he has in common with everyone of his faith.

‘After all,’ said St. Theresa, dying, ‘I am a child of the Church.’ It was not that she chafed at

The petty done, the undone vast.

God has plenty of time to do all His work : His greatest helpers have not vexed themselves with the little they have had time to carry out in their own day and their own way. Nor do I believe it was because she despised her own work ; she was too reverent : it was all His, and she could no more belittle it than St. Paul would slur over what God had wrought with him for tool and labourer of a day. But in the hour of death it is comfort we need, and she found it, as we all must at last, saints and sinners, not in what she had done for Him, but in what He had done for her ; in what He is, not in what she was. ‘After all, O Lord, I am a child of the Church.’

Then, loyalty. Oh, frequent word ! Oh, rare virtue ! Must not that also begin at home, and the loyal man be first of all loyal to himself ?

‘Ah, liberty !’ cried Madame Roland, lifting her eyes to its image before laying her head upon the block—‘Ah, liberty ! the things that are done in thy name.’

And how queer excursions loyalty has taken : what cheap proofs of itself it offers. Out of loyalty King Charles’s subjects levied war against him and removed his head lest a royal tongue should go on telling lies. Your rebel of to-day is your loyalist of to-morrow. Who was the loyalist when that Charles’s namesake and great-grandson, and the butcher Cumberland, fought at Culloden ? which

commanded rebels? Did it not all depend on the issue of a battle? If the Prince of Wales had won then, as well as at Prestonpans, and the Elector had gone off to Hanover, as he was ready to go, I suppose the victorious troops would have been the loyalists, and those who had been trying to keep King James III. out of his throne and dominions would have been allowed by history to be the rebels. In our own days loyalty often consists, like gratitude, in a lively apprehension of favours to come: in an eager resolve to be about a court if possible, to be a guest of royalty, and to bask in princely smiles. How anæmic such loyalty grows when courtly doors remain shut, and royal invitations are not forthcoming! It by no means thrives when it has to be its own reward.

But there is a Catholic notion of loyalty, too: which is a virtue, as is patriotism, and, like it, is part of another virtue: for just as true patriotism is not national vanity, but a phase of Christian love: so loyalty is not a lick-spittle servility, or a self-seeking sycophancy, but a part of the great law of sincere obedience.

And this we owe to many, 'to the king as excelling,' but to many beneath him, and to some above him. The holy spirit of discipline flees from the ungodly, and it is not so easy for the ungodly to be loyal as they think.

Here, again, the Catholic is unjustly suspect because of a true intuition falsely stated. It is perceived that in the Catholic idea there is something higher than any temporal sovereignty, and thence it is concluded that the Catholic cannot be a thoroughly loyal subject of any earthly prince or ruler. So far as this means anything it means that above all earthly rule there is, for the Catholic, a court of higher appeal. Has not non-Catholic loyalty always presupposed one? Else why were your Hampdens patriots and not mere rebels? How can those who sent James II. packing be absolved?

However men may prate when 'loyal' prattle serves a turn, has it not always been recognized outside the Church that 'loyalty' has its breaking-point? And have not they who, when that point has been supposed to be reached,



flung loyalty aside, been most loudly acclaimed in loyal England? When the subjects of every Italian State but one threw off their 'loyalty' to their sovereigns, whither did they turn for surest praise and blindest applause, but to loyal England? not to Radical English, nay, nor Liberal English, but to Tory England, good, solid, constitutional England. If anywhere in Europe Portugal found flatterers and sympathizers when she drove her King away it was in loyal England.

And why? Because to the non-Catholic English mind loyalty is rather a personal sentiment than a logical principle bound up in religion. As a whole the British nation has a strong, personal attachment not so much to the Crown as to the monarch who wears it. But, lacking imagination, and being personally indifferent to monarchs of other countries, it is not personally interested in their vicissitudes, or deeply moved by their misfortunes.

This sort of personal loyalty is very well: but it is not the highest, or safest conceivable. The loyalty taught by St. Paul had Nero for its object. That Emperor's personal claim could hardly have been less, but it did not affect the Apostle's principle. Loyalty based on religion and the duty of obedience is apt to be really more weather-proof than that which in fact depends chiefly on the popular or excellent qualities of the sovereign: since the best sovereign cannot guarantee the perpetual excellence of his successors.

That genuine loyalty is bound up with the principle of authority, those in authority have persistently ignored: and so they themselves have often assailed the principle, while promising themselves that the loyalty they desired in their own case would be still forthcoming after its foundation had been destroyed by themselves.

There have been no more wanton assailants than kings and heads of States of the authority of the Sovereign Pontiffs. Now it was one, now it was another: kings of France, kings of Naples, Venetian oligarchs or doges, Florentine magnificos and grand dukes, Spanish monarchs and Austrian, all have taken their turn of sowing the windy seed of opposition to authority in its supreme seat on earth, and all have

reaped or are reaping their own predestined whirlwind. The real root of modern revolutions lies farther back than the pretexts advanced in explanation of them: the 'principles' which produced the Reformation produced also the excesses of the French Revolution. Peoples who had been taught the nobility of dethroning God's Vicegerent were not likely to leave earthly rulers enthroned.

The Church's theory is that all authority, her own included, is from above; the Reformation theory is that all authority, including that of all Churches, is from below, i.e., from the people who comprise them. In England the king was declared supreme head of the Church as well as of the State; and, whatever he may have chosen to think himself, that declaration was the first step in the destruction of his own position. The monarch in question happened to be a tyrant, and the concession to him of his new claim to supremacy in spiritual affairs gave him the appearance of more complete absolutism; but the appearance was delusive—for the concession implied powers in Parliament that no Parliament had ever before dreamed of. It was Parliament that made Henry VIII. Head of the Church, and because it so acted, out of timidity and subservience, the king's autocracy seemed more assured. But the mere acceptance of such a grant from Parliament recognized in Parliament powers that would inevitably be used again for widely different purposes. Parliaments that had been taught to set aside the primitive authority of the Pope would presently realize their power to set aside the authority of the king,—an authority by no means primitive, and resting on a much more recent prescription.

Henry, clever as he thought himself, did a stupid thing for the continued solidity of his own throne when he made his Parliament pretend to believe it had the right to overturn the throne of the Fisherman.

Time and again the kings of France set up the Gallican liberties against the authority of Peter, and the Eldest Son of the Church was as blindly stupid in doing so as was the Defender of the Faith. For the Catholic Church is the

citadel of authority, and every success, or seeming success, gained against her outworks sapped the foundations of an authority that could never have so much to say for itself.

Wise monarchs have all perceived that 'religion is good for the people,' by which they mostly mean that religion among their people is good for themselves; but they have not been equally clear-sighted in recognizing that the basis of religion is a ticklish matter to play with: that if the people are taught that the only authority for the Church rests in their own will they will not be constrained by any Church to what is not agreeable to themselves. No man will obey orders coming from a quarter subservient to himself except so far as those orders embody his own wishes.

No Church whose authority is derived from the State can expect to rule the members of the State even in spiritual matters. It can only offer suggestions; and its suggestions will only be taken in good part by those who happen to approve them, that is, in general, by those to whom they are superfluous.

A preacher or a prelate may, in such a Church, possess an accidental weight or influence, but it can be only that of his own eloquence or of his own personality: he will only speak for himself. The moment he attempts more, the instant he tries to teach with *authority of mission*, he will be asked: 'Who told you so? By whom are you commissioned?'

JOHN AYSCOUGH.



# Notes and Queries

## THEOLOGY

### ST. PATRICK'S DAY

IN the January number of the I. E. RECORD<sup>1</sup> a Decree was published in which the Sacred Congregation of the Council graciously granted the request of the Irish Bishops that in this country St. Patrick's Day be a holiday of obligation. Nothing is expressly stated in the Decree about the dispensation from fast and abstinence on the Feast of our Patron Saint, but it is certain that implicitly the decision contains this favour, as is clear from a comparison between the petition of the Irish Bishops and the *Motu Proprio* regarding Feast Days.<sup>2</sup> The *Motu Proprio* says: 'Quod si in aliquod *ex festis quae servata volumus*, dies incidat abstinenciae vel jejunio consecratus, ab utroque dispensamus.' The petition of the Irish Bishops says: 'Archiepiscopi et Episcopi Hiberniae petunt ut dies festus S. Patritii, totius Hiberniae patroni, 17 Martii, inter *dies festivas de praeepto in Hibernia servetur*.' By the affirmative reply to this request St. Patrick's Day became a Feast which the Holy See wished to be preserved as a holiday and which, consequently, will enjoy the dispensation from fast and abstinence.

St. Patrick's Day occurs during Lent, and, besides the ordinary laws about fast and abstinence, there is a special law prohibiting the taking of fish and flesh at the same meal during the Lenten season. A person who is allowed in virtue of an Indult to take meat, is not thereby excused from this special law.<sup>3</sup> On the other hand, many notable authorities (Ballerini-Palmieri, D'Annibale, Bucceroni) hold

<sup>1</sup> P. 96.

<sup>2</sup> I. E. RECORD, September, 1911, p. 330.

<sup>3</sup> S. Cong. Officii, 25 Junii, 1875.

that a person who is permitted to take meat on account of illness is not bound by the special law against the mixture of fish and flesh.<sup>1</sup> Since freedom from the laws of fast and abstinence on St. Patrick's Day comes from a Papal Indult, we must conclude that the special law against the mixture of fish and flesh holds. Whether such a dispensation contains or does not contain a clause prohibiting the taking of fish or flesh at the same meal, this clause is always to be understood,<sup>2</sup> so that its absence from the *Motu Proprio* is no proof that the law does not remain in force.

#### CLANDESTINITY

REV. DEAR SIR,—It has recently been stated in public by an eminent Catholic authority that in cases of impossibility *two witnesses* are not required for the validity of marriage. I would be glad if you could possibly give us, in the pages of the I. E. RECORD, some further grounds for this opinion. It is the first time it has ever been heard of by one who must sign himself,

IGNORANT.

The question raised by our correspondent has no practical application to the recent matrimonial case, since it was possible in that case to fulfil all the conditions required by the law of clandestinity. At the same time, the distinguished Bishop's evidence would be incomplete and open to misunderstanding if he had not, at least in a general way, made reference to cases where, either certainly or probably, the law of clandestinity ceases on account of impossibility to observe its regulations. The law of clandestinity, being only an ecclesiastical law, does not bind when it comes into conflict with a higher law since *epikeia* gives relief.

1. Theologians and canonists hold that in case of *common* as distinct from individual impossibility to observe the law of clandestinity as laid down by the Council of Trent, its provisions cease in so far as they are impossible

<sup>1</sup> Cf. Lehmkuhl, i. n. 146, note.

<sup>2</sup> Cf. Gennari, *Quistioni Teologico-Morali*, q. 81.

This teaching was frequently put forward by the Holy Office. Thus, on the 1st July, 1883, it declared: 'Quando difficilis nec tutus est accessus, et ignoratur quandonam parochus haberi possit, et praevidetur spatium saltem unius mensis a loco abfuturus, nullusque alius sit, qui vices parochi suppleat, matrimonium valere absque praesentia parochi, servata tamen *in eo quo potest* forma Concilii, nempe adhibitis saltem duobus testibus.' It will be noted that this reply of the Sacred Congregation had special reference to the presence of the parish priest, and stated that the form of Trent was to be observed *as far as possible*, namely, by having two witnesses. It is implied in this that if it were impossible to have two witnesses the marriage would be valid without them. Moreover, it is only rarely that there can be a case where there is common impossibility in regard to the witnesses, but the case is not entirely impossible. If two marriageable persons were marooned, they would form the community of the place, and they could validly be married without the presence of their parish priest and witnesses. It will be sufficient for our purpose to quote Gasparri<sup>1</sup> on the subject of common impossibility:—

At cessat obligatio et matrimonium clandestinum est validum, imo et licitum, si lex in eo loco jam sit observatu impossibilis. Et quidem si per hypothesim observantia est impossibilis tum quoad praesentiam parochi, tum quoad testium praesentiam, obligatio penitus cessat. Si vero observantia est possibilis quoad praesentiam testium et impossibilis quoad praesentiam proprii sacerdotis; obligatio cessat quoad parochi praesentiam, sed urget quoad praesentiam testium.

This was the state of the law when the Decree *Tametsi* of Trent was in force, and so far as the witnesses are concerned no change has been made by the Decree *Ne Temere*, so that common impossibility to have two witnesses still remains sufficient for the cessation of the law of clandestinity

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<sup>1</sup> *De Matrimonio*, n. 965.



in regard to the presence of witnesses. Speaking of the Decree *Ne Temere*, Father Vermeersch<sup>1</sup> says<sup>2</sup>:—

De casu quo ne testes quidem haberi possint, non agit præsens jus, nec difficultas ista communitatem aliquam, etiam parvam, afficere potest. Si contigerat duos, virum ac mulierem, sic valde diu, sine ulla copia esse ministri vel testium, non negaverimus ipsis facultatem per epikeiam se subductos existiment positivæ legi Ecclesiæ de forma matrimonii.

2. Coming now to the case of *particular* as distinct from common impossibility, we shall see that in extreme or quasi-extreme need the law of clandestinity requiring the presence of witnesses probably ceases by epikeia if they cannot be had. The ordinary case in connexion with which this question is raised is when one of the parties is in imminent danger of death, the marriage is necessary for the salvation of the dying person, and witnesses cannot be called in. Many authorities say that the priest who assists can grant a dispensation from clandestinity in virtue of powers recently conferred for such circumstances, but apart from this dispensation theologians like Lehmkuhl<sup>2</sup> and Ballerini-Palmieri<sup>3</sup> say that clandestinity ceases by epikeia. Though the common opinion is opposed to him, it can scarcely be said that Lehmkuhl's view is improbable. Gasparri, who adheres to the common opinion, says that the arguments against him are difficult of solution: 'haec argumentatio difficile dissolvitur.' The main argument in support of the theory is derived from the principle that a law ceases in a particular case if its motive ceases *in contrarium*; thus in the *casus perplexus* the ecclesiastical law ceases because of the serious inconveniences attached to its observance. In connexion with the Decree *Ne Temere*, Father Lehmkuhl<sup>4</sup> says: 'Duo igitur testes etiam hoc casu [imminentis mortis periculi] advocari debent. Nihilominus, quando ea est necessitas, ut aeterna salus aegroti in discrimen vocetur, nisi contrahat, non sola dispensatione, sed

<sup>1</sup> De Forma Sponsalium ac Matrimonii, n. 78.

<sup>2</sup> *Theologia Moralis*, ii. n. 891.

<sup>3</sup> Loc. cit., vi. n. 819.

<sup>4</sup> Loc. cit., ii. n. 891.

etiam per epikiam ecclesiastica impedimenta *probabiliter* cessant atque ita ipsius clandestinitatis impedimentum, si impossibile fuerit habere testes.' In the case of the impediment of fear, Father Lehmkuhl<sup>1</sup> lays down a similar doctrine when a woman is compelled by fear of death to contract marriage and to consummate the marriage thus contracted :—

Si gravis metus in contrahendo matrimonio incussus externe probari potest, neque de iis matrimoniis agitur, quae a lege clandestinitatis eximuntur, ipsa hac clandestinitate difficultas quidem augetur. At, nisi sumas metum incuti in odium religionis vel auctoritatis ecclesiasticae, etiam legem clandestinitatis in tanta necessitate cessare, est sententia quae dici nequeat improbabilis.

In face of this teaching it is evident that not only *common* impossibility but also, probably, *particular* impossibility sometimes exempts from the law of clandestinity which requires the presence of two witnesses.

#### IS THE SIN THE GREATER FOR BEING COMMITTED ON THE LORD'S DAY?

##### HONORARIA FOR MASSES ON CHRISTMAS DAY

REV. DEAR SIR,—Will you kindly discuss and answer the following questions in the next issue of the I. E. RECORD :—

(I.) Is the sin the greater for being committed on the Lord's Day? The answer in Butler's *Catechism* is: 'Most certainly.' Is this quite correct?

(II.) Can Irish parish priests say two Masses for honoraria on Christmas Day, and Irish curates three? Some priests do.

Yours faithfully,

SACERDOS.

I. 1. It is quite certain that the fact that the sin is committed on Sunday does not add any new grave malice of sacrilege which needs mention in confession. 'Quod autem

<sup>1</sup> *Theologia Moral*, ii. n. 968.

die Dominica, aut die SS. Communionis peccetur, per se non addit novam malitiam gravem sacrilegii ad peccatum in se sumptum. Accidere tamen potest, ut relapsus ipso die confessionis et Communionis *arguat* confessioni defuisse sincerum dolorem, eamque propterea fortasse invalidam vel sacrilegam fuisse.’<sup>1</sup>

2. It is also safe to say that there is no additional venial sin of sacrilege committed by a person who sins on the Lord’s Day, since time is not *consecrated* to divine service as a church is. ‘Praeter has [personas sacras, loca sacra, et res sacras] non est alia res sacra, cujus violatio sacrilegium constituat, e.g., *tempus*, quod dicitur sacrum : tempus enim non est speciali modo Deo consecratum. Ideo non committit sacrilegium, qui die festo peccat.’<sup>2</sup>

3. There is undoubtedly some want of the reverential attitude which suits a day set apart for devotion, if sin be committed, but it is not easy to prove that this amounts in itself to an additional sin. If the sin were committed with the intention of profaning the Sunday there would be special malice, but such a frame of mind is so rare that it can be left out of consideration. Apart from this, or analogous accidental cases, there seems to be rather a defect of reverence than positive irreverence in the fact that the sin is committed on Sunday, and mere negation of reverence does not of itself amount to a sin.

II. Irish as well as other parish priests can lawfully say two Masses and curates can say their three Masses on Christmas Day for honoraria.<sup>3</sup>

J. M. HARTY.

<sup>1</sup> Lehmkuhl, *Theol. Moral.* ii. n. 415.

<sup>2</sup> Noldin, *De Præceptis*, n. 175.

<sup>3</sup> Lehmkuhl, *Theol. Moral.*, ii. n. 290.



## CANON LAW

OBLIGATION UNDER THE ARMAGH STATUTES OF SAYING  
A MASS FOR A DECEASED PERSON WHO HAS DIED  
OUTSIDE HIS PARISH

REV. DEAR SIR,—Kindly give in the March issue of the I. E. RECORD an explanation of the words ‘qui porro,’ etc., that occur in the Provincial Statutes (of Armagh) regarding the division of offerings (p. 22). Is it decreed that the priest who has a right to the ‘quarta pars’ is also bound to have a Mass said for the deceased, i.e., that there should be two Masses said in such cases, or that the onus is thrown on him of making sure that a Mass is always said? If the latter is the interpretation of the Decree, would the knowledge be sufficient for the priest getting the ‘quarta pars’ that Mass in that diocese or parish is said at funerals?

SACERDOS.

REV. DEAR SIR,—In reference to the statutes of the recent Synod of Armagh (par. 27) governing the obligation of saying Mass for a deceased person who has died outside his own parish, is the meaning that the clergy of the place where the death has occurred are to make sure that the clergy of the domicile have said the Mass? I think that interpretation reasonable enough. The obligation would, I grant, rest on the extern clergy, if the others omitted to fulfil it. But if, to the knowledge of the extern clergy, the others do fulfil it—and the custom is, in many places, that the clergy of the domicile say a Requiem Mass on the occasion of the funeral—can it not be said, after all, that the extern clergy do ‘see that a Mass has been celebrated’?

PAROCHUS.

No matter how clearly a law may be stated cases will arise in practice that will make its provisions doubtful and even furnish the basis for varying customs. The statute mentioned by our correspondents seems to be no exception. It could hardly be stated with less ambiguity, and one would imagine that its practical application would give rise to little difficulty. ‘Si quis extra fines paroeciae suae moriatur . . . pertineat quarta pars (oblationum) ad clerum loci ubi contigerit mors, qui porro curent ut pro anima defuncti

Missa celebretur.'<sup>1</sup> We understand, however, that different customs are already growing up, each claiming the sanction of the statute. Which of these, if any, may ultimately come to be accepted it is difficult to say. We can only indicate what, to our mind, is the most reasonable course along which custom should develop.

Before the date of the late Synod it was understood that, when offerings were paid, there was an obligation of saying a Mass for the deceased, part of the offerings being set aside as a honorarium for the celebrant. There was no obligation, however, to say more than one Mass; and on this particular point there is no indication that the new statutes have made any change whatever. The obligation rests on the clergy of the domicile, or on the extern clergy, but it does not rest on both. This, to our mind, seems clear enough, but we are informed that, in certain portions of the province, both parish priests regard themselves as bound to one Mass each. The error, if it be one—and we believe it is—has at all events the saving quality of being an error in the right direction.

Taking it, therefore—as we are justified in doing till the opposite is proved—that there is an obligation to say one Mass and only one, and supposing that there is a custom of paying offerings in both parishes, on whom does the obligation rest when a parishioner has died outside his parish? The answer will depend on the meaning of the phrase 'qui porro curent,' etc. Does it mean, as our correspondents suggest, that the obligation rests primarily on the clergy of the domicile and that the extern clergy are to see that the obligation be duly discharged, or at all events satisfy themselves that somebody has said the Mass? Or does it mean rather that the obligation rests on the extern clergy themselves, and that they are either to say the Mass or get some other priest to say it for them? To our mind the last explanation is the only one admissible. A person cannot be said to 'take care that a thing be done' if he takes no steps whatever to secure it, but rests satisfied with

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<sup>1</sup> *Syn. Prov. Arm. Acta et Decreta* (1908), n. 27.

the information that others have done a similar thing independently and without any instigation on his part. The extern clergy, therefore, are not merely to satisfy themselves that a Mass has been said for the soul of the deceased : they must secure that result by their own action. And not merely by seeing that others perform their duty, but by carrying out themselves what is indicated in the statute, or getting another to do it in their name. The intention of the Fathers of the Synod, we may be sure, was not to appoint the extern clergy the guardians of their neighbours' conscience, or to elevate them into the position of superiors, charged with the responsibility of seeing that others carry out their duty : it was rather to indicate the persons on whom the duty itself was imposed—the duty, namely, of saying the one Mass which the acceptance of offerings was understood to make obligatory. Why does the Synod not order the extern clergy to celebrate the Mass, instead of ordering them 'to see that it be celebrated' ? Merely in order to indicate that the obligation is not a personal one, and that another priest may say it in their name, if that course be found more convenient. In connexion with the Mass itself the Synod mentions the extern clergy, and says nothing whatever of the clergy of the domicile ; on the extern clergy, therefore, the duty rests, and the clergy of the parish are freed from all responsibility. And the arrangement seems very reasonable. After all, the funeral offerings over a deceased parishioner are part of the parochial revenues, and good cause should be shown why any portion of them should be transferred to outsiders. Though the parishioner has died outside his parish, the period during which he has had the ministrations of the extern clergy bears, in normal circumstances, a very small proportion to the time he has lived at home and had his spiritual wants attended to by the clergy of his own parish. If the arrangement regarding the division of the offerings is on the whole favourable to either party, it is favourable to the extern clergy rather than the others, and any responsibility that arises from the acceptance of the offerings should, in fairness, attach to the more favoured party.



The only difficult case that can arise is really the one mentioned by our correspondents, namely, when there is a Requiem Mass celebrated by the clergy of the domicile in connexion with the funeral. But, if what we have said be correct, the solution is obvious enough. The parish clergy are under no obligation to say Mass for the deceased: they, therefore, discharge none if they say it. Absolutely speaking, they may say that Mass for any private intention they please, just as a parish priest's substitute may, *per se*, say the public Sunday Mass for a private intention of his own; though in the majority of cases they will, we suppose, as a matter of fact, apply it for the soul of the deceased. The obligation rests on the extern clergy, and until they have said the Mass or got another to say it for them that obligation will remain. The natural course would be that they should commission the home clergy to say the Mass for them, or that there should be a general understanding among the priests concerned that Masses of the kind should be said in the name of the extern clergy, the latter in each case furnishing the prescribed honorarium from their own portion of the offerings. Apart from such special commission or general understanding, the Mass in question, if said for the deceased, will have been said gratuitously and the extern clergy will remain under the same obligation as before. Nor will they get rid of the obligation by subsequently paying the honorarium without arranging for a second Mass. Take a parallel case. A priest receives a honorarium for a special intention and is obliged to say a Mass. That obligation will remain even though he hears that others, on whom there was no obligation, have said Mass for the same intention; they were under no obligation themselves, and they certainly have not discharged his. It will still remain, if, without stipulating for a second Mass, he hands over the honorarium to the others who have already said the Mass. Whatever has been done without any reference to him or commission from him cannot be in fulfilment of his obligation. He was bound to say a Mass himself or get another to say it, and he has done neither.

As to the suggestions made by our correspondents. 'Sacerdos' enquires whether 'there should be two Masses said in such cases.' We think not. The extern clergy are bound to one Mass and the clergy of the domicile are free. He asks if 'the onus is thrown [on the extern clergy] of making sure that a Mass is always said.' We certainly think so, and that, too, in the sense that they are to say it themselves or get another priest to take their place, not in the sense that their obligations cease when they hear that others have said it without reference to them. When he, therefore, enquires further whether 'the knowledge would be sufficient for the priest getting the "quarta pars" that Mass in that diocese or parish is said at funerals,' and when 'Parochus' suggests that in such cases the extern clergy do, after all, 'see that a Mass has been celebrated,' we need hardly add that we do not believe it. Apart from special information, they cannot be absolutely certain that the clergy of the domicile have done what they were in no way bound to do, namely, that they have applied the Requiem Mass for the soul of the deceased. Even if such were the case, the saying of the Mass has been in no way due to the extern clergy, and the words of the statute require that it should. The knowledge that others have done a work of charity is, in itself, no fulfilment of a person's own obligation in justice.

Of course it may happen that, in such cases, the clergy of the domicile will come, by a general agreement, to act in the name of the extern clergy. If so, the obligation will cease as soon as the funeral Mass has been celebrated, and the honorarium for the celebrant will be deducted from the portion of the offerings due to the extern clergy.

These, at all events, are our opinions, and we submit them for what they are worth to those who are in closer contact with the facts and in a better position to appreciate the force of local circumstances.

## RIGHT OF EXTERN CLERGY TO THE 'QUARTA PARS'

REV. DEAR SIR,—It may interest the clergy of the Armagh Province to have a case lately arisen set out for your consideration, as there is at least some difference of interpretation connected with it. The case is simple in the extreme. An aged man went to a fair, outside the boundaries of his parish, and died there very suddenly. As there was no need for an inquest, the remains were taken to his home on the evening of his death, and his funeral took place the third day after. A claim is made that the death itself, apart from any ecclesiastical rite or ceremony known as a 'funus,' gives a title to the fourth part of the offerings under the Decree dealing with this matter in the new Statutes.

The claim comes to this: that the statutes of 1911 create an entirely new title to the fourth part, namely, death itself outside the parish. The words of the statute do not seem to do so, but quite the contrary: '*Si quis extra fines paroeciae suae moriatur, clerus domicilii habeat jus ad tres partes oblationum occasione funeris collatarum, ubicunque celebretur funus; et pertineat quarta pars ad clerum loci ubi contigerit mors, qui porro curent ut pro anima defuncti Missa celebretur.*' This last clause, 'qui porro,' etc., would seem to demand a funeral outside the parish. How can it be the concern of the clergy of the place where the death takes place that Mass be celebrated for the deceased except the funeral rights are carried out there? It is clearly not their business to look after the funeral arrangements in another parish. In cases like that under consideration, it may easily happen that the clergy of the place where the death took place may not have even heard of the death at all: if it takes place, for instance, in the course of a railway journey. It would seem consequently that this clause, 'qui porro,' etc., shows that there is question not of the death itself but of a 'funus' in the strict sense of the word.

Then the form of the phrase '*ubi contigerit mors*' implying a sequence of acts, a death and also a funeral, and the contrast between the part dealing with the '*tres partes*' and that dealing with the '*quarta pars*' seems to support the same conclusion.

There is another point. If it be assumed for the moment that the death itself gives a title to the '*quarta pars*,' is it not probable that the statute will seriously discriminate against many parishes, particularly the more remote, and in favour of others, with their public institutions, served by chaplains?



Under the statutes of 1854 the 'funus' alone gave a title, and those of 1911 do not seem to create a new one.

ENQUIRER.

Here we have another enquiry about the same Statute of Armagh, n. 27. And whatever specious objections may be raised in connexion with the portion we have just been discussing, we fail to see how there can be room for any difference of opinion whatever in regard to the problem submitted by 'Enquirer.'

According to the Drogheda law of 1854, the extern parish priest was allowed three-fourths of the offerings if, on the day of the funeral, the procession was formed in his parish and proceeded to the place of burial: otherwise he got nothing. As so much depended on the place from which the funeral procession started, there was room for obvious abuses, and the experience of half a century showed that a change was called for. The change has come with the law of 1908, promulgated in 1911. The old regulation has been discontinued, and an entirely new one substituted. It is no longer a question of three-fourths or nothing, but of one-fourth always. And the amount to be paid to the extern parish priest is now entirely independent of the place where the funeral rites are carried out. This is so clearly stated in the law that we are surprised there can be any doubt about it. '*Clerus domicilii habeat jus ad tres partes oblationum . . . ubicunque celebretur funus*': and the latter clause applies, of course, to the supplementary regulation, '*et pertineat quarta pars ad clerum loci ubi contigerit mors*.' In other words, everything depends on where the death took place, not on where the funeral rites are celebrated: no human agency that can possibly be brought into play after the death has taken place can have any effect whatever on the question.

To say that the statute will occasionally lead to strange results is only to say that it shares the fate of all human laws. The extraordinary cases mentioned by our correspondent cannot be taken as a basis for deciding on the merits of the law itself: on the same principle we might

detect flaws in the most perfect human statute ever framed. It is clear that, in the generality of cases, the new regulation gives much better results than the old, and comes much nearer to satisfying the legitimate claims of all concerned. In very exceptional circumstances, such as in the case of the railway journey mentioned, the extern clergy may possibly be more or less willing to renounce their rights, but if they insist we do not see how they can be refused on the terms of the statute. If it were once allowed that certain cases do not fall under the law, the difficulty would arise if fixing a suitable line of demarcation, and there would be practically no possibility of reaching the 'uniformity' which the preamble to the statute makes it quite obvious it was the intention of the legislators to secure. 'Ubi lex non distinguit, nec nos distinguere debemus.'

With all due respect, therefore, to our distinguished correspondent, we think that the statutes of 1911 do 'create [in the province of Armagh] an entirely new title to the fourth part of the offerings, namely, death itself outside the parish.' The 'clause, "qui porro," etc., would seem,' he says, 'to demand a funeral outside.' We can only say that we fail to see the connexion. 'How can it be the concern of the clergy of the place where the death takes place that Mass be celebrated for the deceased, except the funeral rites are carried out there?' It may often be the concern of any priest to say Mass privately for a deceased person, even though the funeral does not take place in his parish: it certainly is his concern if there be an obligation imposed by law, or if he has received a honorarium for the purpose. 'It is clearly not their business to look after the funeral arrangements in another parish.' But nobody asks them to do anything of the kind: they are to say a Mass privately, or get some other priest to say it for them, and they may, as far as the statute goes, leave the funeral arrangements to anybody whose concern they happen to be. 'It may easily happen that the clergy of the place where the death took place may not have even heard of the death at all.' So it may: and it may happen that a man may be left a legacy by some one whose existence he never heard of,

but he is not obliged to renounce the legacy for all that. And how 'the phrase "*ubi contigerit mors*" implies a sequence of acts, a death and also a funeral,' is more than we can quite make out; to the ordinary reader it seems to imply quite the reverse.

As to the statement that the regulation will be unduly favourable to parishes 'with public institutions served by chaplains,' there may be a certain amount of truth underlying it, but it must be remembered that a good number of these institutions are situated in places 'where there is no custom of collecting funeral offerings,' and where, in consequence, 'no part of the offerings is to go to the parish clergy' (same statute). In the case of some institutions, moreover, workhouses for instance, the amount of offerings paid over the inmates is not likely to be anything very considerable. We have even heard of a case in which the local clergy have had some reasons to complain of the new statute, with its imposition of an obligation to say a Mass for the deceased! And as for such institutions as hospitals, etc., it may be fairly said that the fourth part of the offerings represents no more than might reasonably be allowed, in ordinary cases, as a recognition of very exceptional and devoted services.

#### OBLIGATION OF SAYING MASS '*PRO POPULO*' ON RETRENCHED HOLIDAYS

REV. DEAR SIR,—I should be much obliged if you indicated in an early number of the *I. E. RECORD* the dispositions of Canon Law at present prevailing in this country relative to the obligation of parish priests to offer Mass on the retrenched holidays for their parishioners.

Where such an obligation exists, is the parish priest bound to say the Mass in the parish church if only a very few of his people attend on these days?

D. B.

The general law of the Church regarding the obligation of parish priests to say Mass for the people on suppressed holidays holds in Ireland, except in so far as it has been modified by the faculties granted to the Irish Bishops to



dispense with the obligation altogether, 'as their prudence and conscience direct, and after duly considering the circumstances of places and persons.' The terms of the Indult may be seen on page 11 of the Appendix to the Statutes of the last Synod of Maynooth. It was granted at various times during the last century, and was renewed for a period of ten years on the 15th March, 1906.

The provisions of the general law may be found in any of the text-books, and we do not see that it would serve any useful purpose to discuss them here in detail. If our correspondent is anxious for information on any particular point we shall do our best to supply it. As to the question raised in the concluding paragraph of his letter, we refer him to the January issue of the I. E. RECORD for 1909,<sup>1</sup> where he will find it discussed.

M. J. O'DONNELL.

## LITURGY

### SOME QUERIES REGARDING THE 'DIVINO AFFLATU' AND THE NEW RUBRICS

WE have received quite a number of communications in which two questions are proposed for solution: May the *Ordo* for 1912 be followed, although the new method of reciting the Office is adopted? Is a priest at liberty to avail of the new Psalter on Sunday when a Dominical Office occurs, although for other Offices he follows the old method?

1. For the present year a priest is at liberty to follow either the *Ordo* already issued or one compiled in conformity with the new rubrics.<sup>2</sup> But even in the new *Ordo* feasts already transferred are not to be disturbed.<sup>3</sup> Further, as stated in the February issue, on minor Sundays, when a feast Office occurs of double major or double minor rite (except it be a feast or octave day of a feast of our Lord), a priest may say the Mass and Office either of the Sunday

<sup>1</sup> Pp. 75 sqq.

<sup>2</sup> Piaccenza, *Commentarium*, p. 115.

<sup>3</sup> Ibid.

or of the feast. In a footnote in the last issue of the I. E. RECORD it was stated that, in certain circumstances, a similar choice existed for both Mass and Office on the feriae of Lent, Quarter Tense, the second feria of Rogation Days and Vigils. But on looking more closely into the *Praescriptiones Temporariae* we find that the choice on these days is restricted to the Mass and does not extend to the Office.

2. The second question also is of great practical importance. The answer was really given last month, when we asserted that 'priests are perfectly free to adopt at once, on *any* day they wish, the new method of saying the Office.' We meant to convey by these words that the new Psalter may be used for the Dominical Office even by a priest who at other times adheres to the old method. Space did not permit a fuller treatment of the point; but as the reasons for that assertion may not be so clear, it may be well to state them now.

Everyone will admit that once a priest has taken up the new Psalter he would be acting more consistently and more in accordance with the spirit of the Constitution if he discontinued the old method altogether. The point to be discussed, however, is not one of consistency but of obligation. Is there anything in the Constitution *Divino Afflatu*, in the new rubrics, or in the *Praescriptiones Temporariae* which forbids him, under pain of invalidity or pain of sin, to recite the Dominical Office of the future merely for the sake of its brevity, although at other times he entirely ignores the new Psalter?

As stated, perhaps obscurely, last month, we believe that it is perfectly lawful to select the new and short Dominical Office in the circumstances. Two methods of saying the Office are recognized for the present year. The words of the Constitution are quite general: 'Cuique . . . novum Psalterii ordinem . . . rite usurpare licebit.' No restrictions, no conditions, are imposed. Why, then, should we endeavour to read into them limitations which they do not contain or even suggest? An indult or privilege is granted for this year only, and it should receive as wide an interpretation

as possible. We do not think the interpretation we have put upon it is at all too generous. The principle of selection between an inconvenient and a convenient Office, between a longer and a shorter one, was already recognized in the case of the *Officia Votiva per annum*. The fact, then, that the new Dominical Office is so much shorter and is selected for that reason is no argument against the lawfulness of adopting it; and we do not think that anyone can assert that in the case we are discussing it would be invalid. It would be well also to bear in mind that one of the motives underlying the reform of the Breviary was the shortening of the inconveniently long Dominical Office.

Again, in the *Praescriptiones Temporariae* we find that on certain Sundays, 'tum Officium in privata recitatione, tum Missae lectae erunt ad libitum, vel prout notatur in Kalendario anni 1912, vel de Dominica.' There is nothing in the whole paragraph or in anything which precedes or follows it to indicate that this privilege is confined to those who have adopted the new rubrics. If there was question merely of the Mass no one could entertain any doubt on the point; and the Office is put on the same footing. From this concession we conclude that a priest may select the new Dominical Office on these days, even though for other Offices he has not adopted the revised Psalter; for if this is not so he is granted the *privilege* of selecting either the *old* Dominical Office or that, for instance, of a Confessor Pontiff! And if on these days, why not on other Sundays?

These are the principal reasons on which the statement made in the February number was grounded. Since then we have received a copy of Dr. Piacenza's commentary on the *Divino Afflatu* and the new rubrics. His statements derive additional authority from the fact that he was a member of the Commission responsible for the revised rubrics. He does not discuss the precise point at issue; but dealing with the supposition that the new arrangements have been adopted *in toto* he asks whether a priest, in such a case, would still be free to say Votive or Requiem Masses during Lent, whenever the old rubrics allowed them, and not merely on the first free day of the week as the new



regulations prescribe. He answers in the affirmative, and gives the following reason: 'Quia agitur de indulto verum praeceptum, ut patet, non est hoc ipso anno 1912 omittendi missas votivas et pro defunctis in Feriis de quibus agimus; attamen qui statim ab istis Missis celebrandis abstinebit, finem legis magis obtinendum curaret, ac proinde nostro iudicio, bene id facere potest.'<sup>1</sup> A similar line of argument will apply to the case of the Office.

Finally, we notice that the opinion in favour of freedom seems to be held by the commentator on the new rubrics in the *Nouvelle Revue Théologique*. 'Un prêtre,' he says,<sup>2</sup> 'qui aurait adopté le nouveau psautier pourra néanmoins reprendre l'ancien, même pour peu de temps.' Unless, therefore, the contrary is officially stated we shall continue to hold that a priest is perfectly free to adopt the new Psalter on any convenient day.

3. 'A Priest in England' is anxious to know 'what will be the chief feature of the new Breviary.' If the revision chiefly affects the lessons of the second and third nocturns he thinks it would be more advisable to purchase at once a Breviary containing the new Psalter, and afterwards procure the revised lessons as a supplement.

The rearrangement of the Psalter is only the first step, though the most important one, towards a thorough reform of the Breviary. A Commission will now proceed with the work, and, according to Dr. Piacenza,<sup>3</sup> its programme will be (a) to determine what feasts are to be retained in the general Calendar and the rite according to which each is to be celebrated; (b) to amend the historical lessons in accordance with sound critical principles; (c) to remove from the Breviary anything in the homilies and sermons of the Fathers which may be found to be spurious; (d) to reform the general rubrics in accordance with the prescriptions already published; (e) to draw up a Common of Many Confessors and of Many Holy Women in order to reduce the number of feasts without detriment to the *cultus sanctorum*.

<sup>1</sup> *Commentarium*, pp. 115-116.

<sup>2</sup> February number, p. 129.

<sup>3</sup> *Commentarium*, p. 27.

It will thus be seen that the Breviary in its final form will differ considerably from that now about to be issued containing the revised Psalter. Additions will be made to the *Commune Sanctorum* and the lessons of the second and third nocturns to some extent modified; and besides many changes in the historical lessons the whole of the *Proprium Sanctorum* will be recast. The programme before the Commission involves many serious difficulties and the work of revision will be very protracted. In all probability by the time the full revision is completed a Breviary now purchased may well be laid aside; or by making some necessary changes a priest may, in the meantime, retain his old Breviary with the new Psalter.

**RESPONSES TO THE LITANY OF THE BLESSED VIRGIN—  
CUMULATION OF INDULGENCES**

REV. DEAR SIR,—A reply to the following would interest a number of your readers:—

I. In singing the Litany of Our Lady at Benediction it is believed to be a not uncommon practice to take the invocation in threes, and only at the end of each three to sing 'Ora pro nobis.' 1°. Can the indulgence attached to the Litany be gained by this method, seeing that nearly two-thirds of the responses are omitted? 2°. If not, may the above method be tolerated?

II. On a certain feast a plenary indulgence is granted to the faithful on the usual conditions. A plenary indulgence may also be gained by reciting with the prescribed conditions the prayer 'En Ego,' and a third plenary indulgence may be granted on some other ground. 1°. Does the one Communion on the feast serve as a condition for gaining all the indulgences? 2°. Must other conditions which happen to be identical for the indulgences be fulfilled separately for each indulgence to be gained? 3°. Is the old opinion as to the extreme difficulty of acquiring the dispositions necessary for gaining a plenary indulgence still common among theologians?

Yours sincerely,  
BISCOP.

I. The precise point mentioned in the first query has not been decided, as far as we are aware, by any Decree or

answer of the Congregation of Indulgences. In such circumstances one may regard the common practice as a safe interpretation, and the custom of singing the Litany in the manner described by our correspondent is certainly very general. Further, we should be inclined to regard such omissions as relatively small in the case of the Litany, and therefore the indulgence is not affected according to the common opinion.<sup>1</sup>

II. In reply to the second query it will be sufficient to quote the following: 'An eodem die lucrari possint plures indulgentiae plenariae quando pro unaquaque praescripta est perceptio divinae Eucharistiae?' 'Resp. Affirmative, servatis tamen respective aliis appositis conditionibus.'<sup>2</sup> The general rule is that the conditions for each indulgence must be separately fulfilled provided they can be repeated on the same day. The one exception to this rule was noted in the January number of the I. E. RECORD. For the ordinary opinion of modern theologians regarding the difficulty of acquiring the dispositions necessary for gaining a plenary indulgence in the *fullest* sense we would refer our correspondent to Lehmkuhl.<sup>3</sup>

#### WASHING OF CORPORAL, PALLS AND PURIFICATORS

REV. DEAR SIR,—1°. How long, in ordinary circumstances, can a purificator be used for Mass? How long a corporal, as also a pall cover?

2°. Does the *prima lotio* in the 'Excerpta' of the *Ordo* mean one washing of the altar linens, or does it include more than one?

ROMANUS.

Manifestly, no hard and fast rule can be laid down as of obligation. Purificators, corporals, and palls should be changed when they have become soiled, though unfortunately in some cases this is not done. Vavas seur directs that purificators should be changed once a week. Indeed,

<sup>1</sup> Cf. Lehmkuhl, *de Ind.*, cap. iii. 4.

<sup>2</sup> *Decreta Authentica*, 291.

<sup>3</sup> *De Indulg.*, cap. i. art. ii. 5.



they might with good reason be changed more frequently. Corporals and palls will last much longer for decent use in ordinary circumstances. His good taste and feeling of reverence towards divine things will suggest to the priest when a change is becoming.

The *prima lotio* referred to means one washing only as of strict obligation. After that lay persons *may* touch the linens. But it is generally laid down<sup>1</sup> that a second and third washing, with different water each time, should be gone through by some one in Holy Orders before the linens are given to a lay person for further treatment.

**BENEDICTION IN CONNEXION WITH THE DEVOTION OF  
THE 'WAY OF THE CROSS' DURING LENT**

REV. DEAR SIR,—May the devotion of the 'Way of the Cross' be followed by Benediction of the Blessed Sacrament during Lent? Is there any Decree against such a practice? Does not such a combination seem unsuitable and incongruous at this time of the year? A reply in next issue will oblige.

SUBSCRIBENS OSSORIENSIS.

The practice referred to is fairly common, and there is nothing in the Decrees or answers of the S. C. R. to forbid it. Opinions may differ regarding its incongruity; but we think the two devotions may well be connected by singing, for example, some suitable hymn before the *Tantum Ergo*.

THOMAS O'DOHERTY.

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<sup>1</sup> Vavasseur, Part ii. sec. i. chap. xi.; De Herdt, vol. i. 171.

## CORRESPONDENCE

### MONTHLY RECOLLECTION

DUBLIN, *February 1, 1912.*

REV. DEAR SIR,—I have often wondered why no effort has ever been made to establish days of ‘Monthly Recollection’ for the Irish clergy, on the lines followed abroad, notably in France and Belgium. In these countries, for years past, the custom has existed for many priests to devote one day each month to a short retreat. After Mass, said in each one’s church, all assemble at the Seminary or some religious house where one or two conferences are given, followed by a reflection on the obligations and responsibilities of the priesthood. Each one makes a review of the manner in which he has discharged his parochial duties during the past month, takes stock of his own spiritual progress, and outlines a plan of definite work for the coming month.

Objection may be made that this would be a serious drain on the present too limited time of the already overworked priest on the mission, who could ill afford to cut out of his busy life the best part of even one day, without serious detriment to souls. Fortunately, practical experience has proved the contrary. Time given to God and the advancement of one’s own personal sanctification is like ‘bread cast upon the running waters,’ which is found again in redoubled zeal and earnestness in the work of the Master’s vineyard and a marked blessing of the Almighty upon the labourer’s efforts for the salvation of souls.

A little perseverance in this practice shows the priest, also, that the real secret of his success in the ministry lies in a close union with God, and that prayer is a weapon whose power he had never fully realized.

I am sure, if the matter were laid before them, that the Jesuit Fathers of Milltown Park would gladly grant facilities for a Monthly Day of Recollection, which would certainly prove a boon to many of those who, like myself, must spend their lives amid the rush and bustle of the world.

SACERDOS.

## THE REPETITION OF EXTREME UNCTION

REV. DEAR SIR,—In Father Dunne's interesting and practical paper on Extreme Unction in the February number of the I. E. RECORD, he quotes Noldin's teaching that Extreme Unction should be administered conditionally 'when there is a doubt whether there is probable danger of death' (ibid., page 117). Kindly permit me to say that this opinion of Noldin appears (1) to be singular, (2) to lead to inconvenient consequences, and (3) to be opposed to the common practice of the clergy.

(1) In the other approved handbooks of Moral Theology commonly used, there is no mention of such a condition (Lehmkuhl, Ballerini-Palmieri, Berardi, Genicot).

(2) Suppose Extreme Unction is thus conditionally administered to a patient whose 'infirmity' happens in reality not to be 'periculosa,' but, through some undiscovered negligence or imprudence on his part or on the part of attendants, develops, and has the following week became truly 'periculosa,' the priest is not aware there is any need of anointing again. The disease proves fatal—the patient dies without Extreme Unction since the first anointing was invalid on account of the conditional administration.

(3) As far as I know from my own experience, it is not the practice to put in this condition. I am also aware that an eminent and learned ecclesiastic of many years' experience has stated that the practice of the priests (in this country) is never to put in the condition 'si periculosa sit infirmitas.'

It may be of interest to quote the same ecclesiastic's opinion in connexion with this subject. As to what 'infirmity' is required (for the administration of Extreme Unction) he has stated that he was inclined to hold that it depends on the judgment of the minister, but yet that the subject must have some objective sickness; and further, that (in his opinion) *any* infirmity is enough for the validity, but it must be 'infirmity ad mortem' for the lawfulness of the administration of the Sacrament.

I am,

Yours truly,

S. L.



POPE PIUS X. FOUNDS PIOUS UNION OF FIRST COMMUNION  
OF BOYS

ACTA PII PP. X.

LITTERAE APOSTOLICAE

ERECTIO PIAE UNIONIS PRO COMMUNIONE PRIMA PUERORUM AD  
S. CLAUDII DE URBE IN PRIMARIAM UNIONEM, CUM FACULTATE  
AGGREGANDI IN UNIVERSO TERRARUM ORBE

PIUS PP. X.

Ad perpetuam rei memoriam.—Sublimem Divi Petri Cathedram Nobis divinitus obtinentibus in terris, ob singulare studium quo erga Sacramentum amoris ducimur, nihil antiquius est, quam ut pueri obsitum periculis vitae iter suscipientes, puro corde ad Eucharisticas dapes se sistant, ac tempestive, antequam mundi sordes innocentiae speculum obtlegant, tanti mysterii gratia muniantur. Hac provida mente de aetate admittendorum ad primam communionem eucharisticam decretum edidimus, quod incipit verbis ‘Quam singulari,’ et non sine magna animi Nostri laetitia comperimus in hac Alma Urbe ad S. Claudii a Dilecto Filio Nostro Cardinali Vicario in spiritualibus Generali canonice erectam fuisse piam Unionem cui titulus a Prima Communionem Puerorum. Haec enim Unio frugiferum ad finem intendit tum propagandi inter populos illius Decreti cognitionem et implementum, tum instituendi pueros ad normam superenunciati Decreti, ut rite instructi et apparati ad Sacram Synaxim prima vice accedant, ac durante pueritia Angelorum Pane se frequenter reficiant. Nunc autem cum hodiernus Procurator Generalis Congregationis a SSmo Sacramento Nos enixis precibus flagitet, ut ipsam piam Unionem ad Primariae gradum pro universo Catholico Orbe evehere de benignitate Nostra dignemur; Nos tam frugiferae Societatis coeptis ultro libenterque faventes, ut uberiora in dies incrementa capiat et in Catholici nominis bonum atque emolumentum eadem, favente Deo, magis magisque succrescat, optatis his annuendum propensa voluntate existimamus. Quare his Litteris, auctoritate Nostra, piam Unionem a prima Communionem Puerorum hac in Alma Urbe ad S. Claudii canonice erectam in Primariam pro universo Catholico Orbe perpetuum in modum erigimus atque instituimus, illique privilegia omnia et praerogativas tribuimus, quae Primariis Unionibus de

iure competunt. Porro piae Unionis eiusdem sic in Primariam per Nos erectae Moderatori atque Officialibus praesentibus et futuris, Apostolica similiter Nostra Auctoritate, per praesentes concedimus, ut ipsi, servatis forma Constitutionis Clementis PP. VIII. rec. me. Decessoris Nostri aliisque Apostolicis Constitutionibus atque ordinationibus desuper editis, alias omnes eiusdem tituli atque instituti pias Uniones canonice ubique terrarum, sive erectas in praesens sive erigendas in posterum, vel etiam ubique singillatim fideles, sibi aggregare queant; et cum illis indulgentias omnes ipsi Primariae Unioni a Sede Apostolica concessas, quae cum aliis communicari valeant, communicare licite etiam possint. Decernentes praesentes Litteras firmas, validas atque efficaces semper extare ac fore, suosque plenos atque integros effectus sortiri et obtinere, illisque ad quos spectant, sive spectare poterunt, plenissime suffragari: sicque rite iudicandum esse ac definiendum irritumque et inane fieri, si secus quidquam super his, a quovis, auctoritate qualibet, scienter sive ignoranter, attentari contigerit. Non obstantibus contrariis quibuscumque.

Datum Romae apud S. Petrum sub annulo Piscatoris, die IV Ianuarii MDCCCXII., Pontificatus Nostri anno nono.

R. CARD. MERRY DEL VAL, *a Secretis Status*.

L. ✠ S.

#### BASILICA OF ST. JOSEPH IN BUENOS AYRES

TITULUS BASILICAE MINORIS PRO VETUSTISSIMO TEMPLO PAROCHIALI  
DEO DICATO IN HONOREM S. PATRIARCHAE IOSEPH, DEIPARAE  
VIRGINIS SPONSI, IN CIVITATE BONAËRENSI

#### PIUS PP. X.

Ad perpetuam rei memoriam.—Catholici Orbis praestantiora templa, quae vel molis amplitudine et insignibus artis monumentis, vel Sanctorum exuviis et antiqua fidelium religione prae-fulgeant, Romanorum Pontificum Decessorum Nostrorum vestigiis haerentes, singularibus titulis ac privilegiis cohonestare solemus. Iam vero constat apprime vetustissimum templum in honorem SS<sup>mi</sup> Patriarchae Ioseph, Deiparae Virginis Sponsi, in Bonaërensi Civitate dicatum, iure inter potiores sacras aedes esse accensendum, quibus Bonaërensis Archidioecesis nobilitatur: ipsum enim templum tum ingenti structura, tum conspicuae omnigenae artis operibus renidet. Cum itaque

Venerabilis Frater Marianus Antonius Espinosa Archiepiscopus Bonaërensium Nobis significet, et sibi et clero qui divinis muniis ipsa in paroecia naviter fungitur, et fidelibus etiam universis, qui ferventissimo erga Virginis Immaculatae Purissimum Sponsum devotionis studio ducti, sacram eandem aedem non intermisso celebrant concursu, gratissimum maximeque acceptum fore, si per Nos praecipuum ipsi templo decus et peculiaris honoris titulus accedat; Nos votis his annuendum propensa quidem voluntate existimamus. Quapropter, Apostolica Nostra Auctoritate, praesentium vi, Ecclesiam parochialem sub invocatione Patriarchae S. Iosephi, Bonaërens civitatis, ad Basilicae Minoris dignitatem evehimus, eique privilegia omnia tribuimus, quae Minoribus Almae huius Urbis Basilicis de iure competunt. Decernentes praesentes Litteras Nostras firmas, validas atque efficaces semper extare, suosque plenarios atque integros effectus sortiri, obtinere, illisque ad quos spectant, vel spectare poterunt in posterum, plenissime suffragari; sicque rite iudicandum esse et definiendum; irritumque et inane fieri, si secus quidquam super his, a quovis, auctoritate quavis, scienter sive ignoranter, attentari contigerit. Non obstantibus contrariis quibuscumque.

Datum Romae apud S. Petrum sub annulo Piscatoris die xv Ianuarii MDCCCXII Pontificatus Nostri anno nono.

R. CARD. MERRY DEL VAL, *a Secretis Status*.

L. ✠ S.

## BEATIFICATION AND CANONIZATION OF BENVENUTO BAMBOZZI

S. CONGREGATIO RITUUM

AUXIMANA.

DECRETUM BEATIFICATIONIS ET CANONIZATIONIS VEN. SERVI DEI BENVENUTI BAMBOZZI SACERDOTIS PROFESSI ORDINIS MINORUM CONVENTUALIUM

Auximi in Piceno, die 23 Martii anno 1809, ab honestis coniugibus Vincentio et Elisabetha Frontalini ortus est Bevenutus Bambozzi, qui inde a pueritia vitam egit omne laude dignam. Ab ipsa pia genitrice et a familiae curione fidei rudimentis morumque praeceptis sancte instructus, postquam in agrorum cultura et in domesticis negotiis suam opem contulisset, anno aetatis vigesimo secundo, recessus tranquillitate atque intimiore cum Deo coniunctione selecta, ad illius civitatis conventum



S. Iosephi a Cupertino, Ordinis Minorum Conventualium, sponte convolavit. Die tertia Decembris anno 1832 religionis vestem induit et, tyrocinio laudabiliter peracto, anno subsequenti, die nona eiusdem mensis Decembris, sancta gestiens laetitia, solemnia vota professus est. Illico Urbinum mittitur studiorum causa; quo tempore quum quotidianos in virtute ac doctrina faceret profectus, ad minores et maiores Ordines per gradus usque ad sacerdotium ascendere meruit. Biennio post, Benvenutus iam sacerdos Pisaurum, ex moderatorum voluntate, se confert, ut studio theologiae moralis theoreticae et practicae totus incumbere, itemque artem artium, regimen animarum, melius addiceret. Anno 1837 Cameranum concessit, ubi maximum sui desiderium reliquit cum coenobio Fractae praepositus fuit. Sacro tribunali, concionibus ad populum, infirmis et morientibus sedulam praestitit operam, se enim *hominem populi* dicere solebat. Dum dicto coenobio praeerat, etiam S. Officii Vicarius electus fuit atque huiusmodi munus suavi fortitudine exercuit. Deo per moderatores sic disponente, anno 1844 in patriam reversus, Benvenutus idoneum tyronum magistrum se exhibuit, donec, anno 1861, ob illorum temporum acerbitem ac tristitiam suppresso coenobio atque expulsis dispersisque sodalibus, ipse solus cum socio Basilicae S. Iosephi rector et custos relictus est. Anno vero 1866 servus Dei eandem sodalium sortem passus et in parva domo hospes et amicus exceptus, parochis civitatis auxiliator adstitit valde utilis in omnibus sacri ministerii operibus. Tandem, apostolicis laboribus praestans, die vigesima quarta Martii anno 1875 e vita migravit. Opinio sanctitatis quam Dei Famulus vivens sibi adeptus fuerat, post obitum magis in dies illustris ac diffusa emicuit. Hinc in ecclesiastica Curia Auximana inquisitiones Ordinariae super eiusmodi fama inchoatae atque expletae, Romam ad Sacrorum Rituum Congregationem transmissae sunt. Peracta autem revisione scriptorum Servi Dei, obtentisque a lapsu decennii et ab interventu ac voto Consultorum Apostolicis dispensationibus, quum nihil obstaret quominus ad ulteriora procedi posset, instante R<sup>m</sup>o D<sup>ño</sup> Dominico Jaquet, Archiepiscopo tit. Salaminae atque Ordinis Minorum Conventualium Postulatore Generali, attentisque litteris postulatoriis quorundam E<sup>m</sup>orum S. R. E. Cardinalium, complurium R<sup>m</sup>orum Sacrorum Ant<sup>ist</sup>itum ac Praepositorum Ordinum Regularium, E<sup>m</sup>us et R<sup>m</sup>us Dominus Iosephus Calasantius Cardinalis Vives y Tuto, huius Causae Ponens seu Relator, in Ordinariis Sacrorum Rituum Congre-

gationis Comitiis subsignata die ad Vaticanum coadunatis, sequens dubium discutiendum proposuit : *An sit signanda Commissio Introductionis Causae in casu et ad effectum de quo agitur ?* Et Eñi ac Rñi Patres Sacris tuendis Ritibus praepositi, post relationem ipsius Eñi Ponentis, audito etiam voce ac scripto R. P. D. Alexandro Verde, Sanctae Fidei Promotore, omnibus sedulo perpensis, rescribendum censuerunt : *Affirmative seu signandam esse Commissionem, si Sanctissimo placuerit.* Die 5 Septembris 1911.

Facta postmodum de his Sanctissimo Domino Nostro Pio Papae X. per infrascriptum Cardinalem Sacrae Rituum Congregationi Praefectum relatione, Sanctitas Sua Rescriptum Sacrae ipsius Congregationis ratum habuit ac probavit, simulque propria manu signare dignata est Commissionem Introductionis Causae Beatificationis et Canonizationis Venerabilis Servi Dei Benvenuti Bambozzi, sacerdotis professi Ordinis Minorum Conventualium, die 6, eisdem mense et anno.

FR. S. CARD. MARTINELLI, *Praefectus.*

✠ PETRUS LA FONTAINE, *Episc. Charystien., Secretarius.*

L. ✠ S.

# LETTER OF CARDINAL MERRY DEL VAL TO THE ARCHBISHOP OF BOURGES, ON SCHOLASTIC PHILOSOPHY

SECRETARIA STATUS

EPISTOLA

AD R. D. P. ALOISIUM ERNESTUM DUBOIS, BITURICENSIVM ARCHIEPISCOPVM, DE NECESSITATE REDEUNDI AD PHILOSOPHIAM SCHOLASTICAM

Monseigneur,

Le Saint-Père Pie X. a accueilli avec une particulière satisfaction le projet que Votre Grandeur m'a prié de Lui soumettre relativement à la nécessité du retour à la Philosophie Scolastique, spécialement dans le clergé.

Vous exposez très opportunément, Monseigneur, qu'à la base des sciences sacrées il doit y avoir nécessairement une philosophie *scolastique* par ses principes et par ses méthodes, une philosophie fondée sur la croyance à la puissance de la raison et au caractère absolu de la vérité. Le Saint-Siège l'a rappelé bien souvent et en des circonstances solennelles.

L'Église est loin d'avoir jamais condamné les méthodes par

lesquelles les sciences naturelles se sont constituées et ont pris de si merveilleux développements. Ce qu'Elle repousse, ce sont certains principes de la philosophie moderne, aussi contraires à la droite raison qu'à la vérité révélée.

Le Saint-Père bénit Vos généreux efforts et Vous félicite de trouver au milieu des soins multiples du ministère pastoral, le temps de dissiper des équivoques et des confusions qui troublent les âmes.

Je saisis avec plaisir cette occasion de Vous renouveler, Monseigneur, les assurances de mon entier dévouement en Notre Seigneur.

Le 13 Décembre 1911.

R. CARD. MERRY DEL VAL.

#### POPE PIUS X. AND THE UNIVERSITY OF MANILA

##### EPISTOLA

AD R. P. IOSEPHUM NOVAL, SODALEM DOMINICANUM, RECTOREM PONTIFICIAE STUDIORUM UNIVERSITATIS MANILENSIS A SANCTO THOMA NUNCUPATAE, OCCASIONE TERTII EXEUNTIS SAECULI EX QUO IPSA UNIVERSITAS CONDITA FUIT.

Dilecte fili, salutem et apostolicam benedictionem.—Manileensem studiorum Universitatem, vetustam ac nobilem doctrinarum sedem, sollemnia parare ob conditum tertium saeculum ex quo esse coepit, libenter quidem accepimus. Retulit id Nobis Apostolicus Delegatus in Philippinis Insulis, illud praeterea adiiciens, quod pergratum habuimus, indicta nimirum sollemnia ita instrui ut externa pompa et bonis litterarum fructibus proposito sint paria, teque etsi brevi abhinc tempore praefatae Universitati praepositum, ita tamen egregie de eadem meruisse, ut laudatum christianae sapientiae domicilium navitati tuae accepta referat non exigua dignitatis incrementa.

Quibus sane incrementis et Nos, dilecte fili, studemus quum, in partem vocati laetitiae vestrae, haud inviti communibus votis annuimus, rati societatem Nostram periucundam catholicis fore, et Academiam celebrantibus acriora praebitura incitamenta ad coepta optima, uberiore cum fructu, persequenda. Quod ipsum, ut bene nosti, spectarunt Romani Pontifices Decessores Nostri atque etiam catholici Hispaniae Reges, quum perillustre Athenaeum vestrum tot cumularunt beneficiis ac privilegiis, quot idem condecorant vosque gratis tenetis animis. Sed illud quoque memorare oportet, sollertiam accipientium beneficia, confer-



entium expectationi respondisse. Manilense siquidem Institutum, per varios casus fortunaeque vicissitudines, ea semper floruit doctrinae integritate atque elegantia, ut longe lateque vim diffuderit religioni reique litterariae frugiferam ac salutarem. Et re quidem vera, memoria vetera repetenti frequentes occurrunt Religiosi viri, pietate insignes ac doctrina, quos olim alma ista studiorum sedes aut excoluit alumnos, aut doctores fovit sibi que adiunxit, gloriosi laboris consortes. Quorum in numero neque ii desunt qui ad episcopalem amplioremque dignitatem fuerint ob merita evecti, neque ipsi christianae legis praecones qui *in admirabile lumen Christi* et una simul ad civilem cultum mitesque mores vocaverint et traducere conati fuerint quos, Evangelii luce adhuc expertes, Sinae ac Iaponiae continent fines, fide catholica haud semel cruento testimonio confirmata. Ex laicis etiam viris vix quemquam reperies ex Philippinis doctrina, gratia, auctoritate praestantem qui Manilensem Universitatem adolescens olim non celebraverit.

Iure igitur penes vos civium omnium gestiunt animi rei auspicatissimae memoriam studio recolere. Ceteris vero plane addecet anteire Sodales Dominicanos, quum ab iis, supremae voluntati obsequentibus perillustis sodalis fratris Michaëlis de Bonavides Manilensis Archiepiscopi, Lyceum istud ortum habuerit et continenter auctus, usque adeo ut merito popularibus vestris sanctius sit ex catholicis institutis.—Qua in recordatione memoriae valde velimus illud in primis vestrates prae se ferant atque efferant quod iisdem omnibus alta mente repositum esse debet: maternam, dicimus, catholicae Ecclesiae providentiam, cuius auspiciis tria iam saecula Manilae patet Institutum ex quo tanta effluxit humanitatis copia, quanta vestram honestat civitatem.

Faxit Deus ut laudati Athenaei decus, fructu exquisitioris doctrinae ac disciplinae arctioris, magis magisque augeatur; fiet profecto, quod vehementer cupimus, ut iuventus quae inibi in Ecclesiae ac civitatis spem succrescit, ita instituat ut, quam utrique concitat expectationem perpetuo sustineat ac tueatur.

Quod ut e sententia cedat, tibi, dilecte fili, Religiosis Sodalibus tuis, quorum elucent studia ut opinionem Instituto concilient in dies maiorem, coelestia munera adprecantes, nec non ceteris omnibus qui apparandis saecularibus sollemnibus dant operam, omnique demum Universitati, Apostolicam Benedictionem libenti animo impertimus.

Datum Romae apud S. Petrum, die xvi Octobris MCMXI, Pontificatus Nostri anno nono.

PIUS PP. X.

## THE LAW OF FAST ON THE VIGIL OF FEAST DAYS

## S. CONGREGATIO CONCILII

DUBIUM CIRCA INTERPRETATIONEM EORUM QUAE MOTU PROPRIO  
 'SUPREMI DISCIPLINAE' DE DIEBUS FESTIS, DIE II IULII  
 ANNO 1911 EDITO, STATUTA SUNT

S. Congregationi Concilii a nonnullis Hispaniae Episcopis  
 dubium quod sequitur propositum est: 'Quum hoc anno veri-  
 ficetur quod vigilia Nativitatis D. N. I. C., coincidat cum Dominica,  
 quae semper manet exclusa a lege ieiunii et abstinence, nonnulli  
 Moralistae interpretantur dispositiones Motus Proprii "De  
 diebus festis," retinentes et publicantes in ephemeridibus, quod  
 die 23 Decembris, scilicet sabbato, vigeat obligatio simplicis  
 ieiunii ratione temporis sacri Adventus, non vero obligatio  
 abstinence a carnibus uti fieri solebat in vigilia aut antivigilia  
 eiusdem Nativitatis Domini. Quaeritur itaque ut explicite  
 declaretur an praedicta interpretatio sustineri possit.'

S. C. Concilii respondendum censuit: *Negative.*

Datum Romae ex Secretaria S. C. Concilii, die 15 Dec. 1911.

C. CARD. GENNARI, *Praefectus.*

O. GIORGI, *Secretarius.*

L. ✠ S.

## DIVISION OF APOSTOLIC PRAEFECTURE

## S. CONGREGATIO DE PROPAGANDA FIDE

DECRETUM DIVISIONIS PRAEFECTURAE APOSTOLICAE UELLENSIS

Quo uberius evadat in Uellensi Apostolica Praefectura divini  
 nominis praedicatio, Eñi Patres S. huius Congregationis Fidei  
 Propagandae, in plenariis comitiis die XI vertentis mensis habitis,  
 statuerunt ut praedictum territorium per xxvi semis gradum  
 longitudinis orientalis (26° 30' Est Greenwich) in duas partes  
 divideretur. Quarum prima, curis Canonicorum Regularium  
 Praemonstratensium Abbatiae Tongerloënsis credita, ut novum  
 de Uellè Occidentali nomen acciperet, censuerunt; altera vero,  
 de Uellè Orientali nuncupanda, in separatam atque independen-  
 dentem Praefecturam Apostolicam erigeretur, fratribus Ordinis  
 Praedicatorum Belgicae provinciae concedendam.

Quam Eñorum Patrum sententiam ab infrascripto praedictae  
 S. Congregationis Secretario SSmo Domino Nostro Pio div. prov.

PP. X. in audientia eiusdem diei relatam, Sanctitas Sua in omnibus adprobare ratamque habere dignata est, atque praesens ea de re decretum confici mandavit.

Datum Romae ex aedibus S. Congregationis de Propaganda Fide, die 18 Decembris anno 1911.

FR. H. M. CARD. GOTTI, *Praefectus*.

C. LAURENTI, *Secretarius*.

L. ✠ S.

## CONGREGATION OF THE INDEX

### S. CONGREGATIO INDICIS

#### DECRETUM

#### QUO QUAEDAM SCRIPTA DAMNANTUR

*Sacra Congregatio Eminentissimorum ac Reverendissimorum Sanctae Romanae Ecclesiae Cardinalium a SANCTISSIMO DOMINO NOSTRO PIO PAPA X. Sanctaque Sede Apostolica Indici librorum pravae doctrinae, eorundemque proscriptioni, expurgationi ac permissioni in universa christiana republica praepositorum et delegatorum, habita in Palatio Apostolico Vaticano die 22 Ianuarii 1912, damnavit et damnat, proscripsit proscribitque, atque in Indicem librorum prohibitorum referri mandavit et mandat quae sequuntur opera.*

L. DUCHESNE, *Histoire ancienne de l'Eglise*. Paris.

ABBE' DOLONNE, *Le Clergé contemporain et le Célibat*. Paris, s. a.

*Letters to His Holiness Pope Pius X.* By a Modernist. Chicago, 1910.

*The Priest.* A Tale of Modernism in New England. By the author of *Letters to His Holiness Pope Pius X.* Boston, 1911.

*Adveniat Regnum Tuum.* 1. Letture e preghiere cristiane. 2. Rituale del cristiano. 3. L'anno cristiano Roma 1904-5.

I. CHOUILLY. *Carnet du petit Citoyen. Résumés d'instruction morale et civique. Cours moyen et supérieur.* Verdun, 1910.

TOMMASO GALLARATI SCOTTI. *Storia dell'amore sacro e dell'amore profano.* Milano, 1911.

*Itaque nemo cuiuscumque gradus et conditionis praedicta opera damnata atque proscripta, quocumque loco et quocumque idiomate,*



*aut in posterum edere, aut edita legere vel retinere audeat, sub poenis in Indice librorum vetitorum indictis.*

Zenner-Wiesmann, W. Koch et O. Wecker, Aug. Humbert, Ottocarus Prohasrka et auctor (P. A. S.) operis inscripti *Catechismo di storia sacra*, decretis S. Congregationis, editis diebus 8 Maii et 5 Iunii 1911, quibus quidam libri ab eis concripti notati et in Indicem librorum prohibitorum inserti sunt, laudabiliter se subiecerunt.

*Quibus SANCTISSIMO DOMINO NOSTRO PIO PAPAE X. per me infrascriptum Secretarium relatis, SANCTITAS SUA Decretum probavit, et promulgari praecepit. In quorum fidem, etc.*

*Datum Romae die 24 Ianuarii 1912.*

FRANCISCUS CARD. DELLA VOLPE, *Praefectus.*

THOMAS ESSER, O.P., *Secretarius.*

L. ✠ S.

#### DISPENSING A PRIEST FROM IRREGULARITY

S. CONGREGATIO CONSISTORIALIS

ROMANA

DECLARATIO CIRCA FACULTATEM DISPENSANDI PRESBYTEROS AB IRREGULARITATE

Proposito dubio 'utrum, vi decisionis huius S. Congregationis Consistorialis diei 27 Februarii 1909, facultas concedendi presbyteris dispensationem ab irregularitate, sive haec oriatur ex delicto, sive ex defectu, spectet ad S. Congregationem de Sacramentis, an potius ad S. Congregationem Concilii': SS<sup>mus</sup> D. N. Pius PP. X., attentis votis tum a Secretis utriusque Congregationis de Sacramentis et Concilii, tum huius S. Congregationis Consultorum, mandavit ut respondeatur 'dispensationem ex defectu reservari ad S. Congregationem de Sacramentis, ex delicto autem ad S. Congregationem Concilii.'

Datum Romae, ex Secretaria S. Congregationis Consistorialis, die 28 Novembris anno 1911.

C. CARD. DE LAI, *Ep. Sabinen., Secretarius.*

SCIPIO TECCHI, *Adessor.*

L. ✠ S

LETTER OF CARDINAL SECRETARY OF STATE TO  
FR. JANVIER, O.P.

SECRETARIA STATUS

EPISTOLAE

AD R. P. JANVIER, O.S.D., QUI NONUM SACRARUM ORATIONUM  
VOLUMEN, AB EODEM IN ECCLESIA METROPOLITANA 'NOTRE  
DAME' PARISIIS HABITARUM, AUGUSTO PONTIFICI, DEVO-  
TIONIS SPECIMEN, EXHIBUIT.

Mon Révérend Père,

Le Souverain Pontife, Pie X., très particulièrement touché des sentiments de votre piété filiale, a agréé avec la plus haute bienveillance l'hommage du 9<sup>e</sup> volume de vos Conférences à Notre Dame de Paris.

Le Saint-Père s'est rendu compte, qu'après avoir achevé cette lumineuse synthèse de la morale générale, qui a mis votre auditoire si nombreux et si choisi en contact avec le plan divin et l'ordre surnaturel, vous abordez heureusement la morale spéciale par l'étude de la vertu théologique de la foi, germe et fondement de toute la vie chrétienne.

Montrant tour à tour les réalités divines qui constituent l'objet de la foi, le caractère qui fait de la foi possédée la noblesse de l'intelligence humaine, les rapports de la foi avec l'enseignement dogmatique de l'Église et avec le magistère infaillible du Pontife Suprême, vous établissez enfin les devoirs et la pratique de la foi, vous donnez plus que jamais aux âmes angoissées et avides de Dieu la splendide et pacifiante lumière de la vérité intégrale, dégagée avec soin, grâce à la doctrine ferme et précise du Docteur Angélique, de tout préjugé et de toute erreur.

Le Souverain Pontife se réjouit des bienfaits qu'apporte aux âmes votre parole éloquente et apostolique. Il vous félicite de servir efficacement la cause du Christ, et fait des vœux pour que votre prochaine station de Carême soit bénie de Dieu et pleinement féconde pour éclairer les âmes sur les vices contraires à la Foi. Comme gage de sa paternelle affection, Sa Sainteté vous accorde, de tout cœur, à Vous même et à vos auditeurs la Bénédiction Apostolique.

Avec mes remerciements personnels pour l'exemplaire que Vous m'avez gracieusement adressé, veuillez agréer, Mon Révérend Père, l'expression de mes sentiments bien dévoués en Notre Seigneur.

Le 20 Décembre 1911.

R. CARD. MERRY DEL VAL.

LETTER OF CARDINAL SECRETARY OF STATE TO MGR.  
DELAMAIRE, COADJUTOR-BISHOP OF CAMBRAI

AD R. P. D. FRANCISCUM M. DELAMAIRE, ARCHIEPISCOPUM TIT.  
METYMNAEUM, COADIUTOREM CAMERACENSEM, QUI REVER-  
ENTES NOBILESQUE CATHOLICORUM LITTERAS BEATISSIMO  
PATRI TRANSMISIT.

Monseigneur,

Le Souverain Pontife a pris connaissance avec le plus vif intérêt de la noble Adresse transmise par Votre Grandeur et revêtue des nombreuses signatures des membres du trente-huitième Congrès des Catholiques du Nord et du Pas-de-Calais.

Sa Sainteté n'a pu lire sans émotion ces pages vibrantes de foi et de dévouement au Saint-Siège, écrites par des hommes, que leurs œuvres vivantes et fécondes signalent à l'admiration de la France entière.

Il a été très agréable au Saint-Père d'apprendre, par la lettre de Votre Grandeur, que ce Congrès, honoré de la présence de l'Éme Cardinal Archevêque de Malines, et des Evêques d'Arras et de Digne, n'a été inférieur à ses devanciers ni par l'importance des questions traitées, ni par la valeur croissante des résultats constatés dans l'intensification de l'Action Catholique en votre province. Les progrès réalisés notamment dans l'organisation et le fonctionnement de l'*Union diocésaine* sont tout à la fois très remarquables et pleins de promesses pour l'avenir.

En présence d'une activité si soutenue et si féconde, le Souverain Pontife a la ferme espérance que les efforts de l'Esprit du mal et de ses suppôts seront toujours tenus en échec par la foi et le zèle de vos chrétiennes populations, si intelligemment organisées, et si fermement maintenues dans le bon chemin par la direction de leur clergé uni aux Chefs des diocèses et au Pasteur Suprême.

Comme gage de cette victoire définitive, Sa Sainteté Vous accorde de tout cœur pour Votre Grandeur et pour tous les membres du Congrès ainsi que pour tous vos diocésains, la Bénédiction Apostolique.

Je saisis avec empressement cette occasion pour Vous offrir, Monseigneur, l'assurance de mes sentiments très dévoués en Notre Seigneur.

Le 2 Janvier 1912.

R. CARD. MERRY DEL VAL.



## THE DOXOLOGY

## ROMANA ET ALIARUM

CIRCA DOXOLOGIAM, V. PRIMAE, ET PRAEFATIONEM PROPRIAM IN OCCURRENTIA FESTORUM B. M. V. AD INSTAR SIMPLICIS REDACTORUM

Quum ex Constitutione Apostolica 'Divino afflatu' SS<sup>mi</sup> Dñi Nostri Pii Papae X., diei 1 Novembris 1911, Festum B. M. V. ritus duplicis maioris, aut dies Octava eiusdem Deiparae, si in Dominicam occurrant, amodo simplificari debeant; Sacrae Rituum Congregationi insequentia dubia proposita fuerunt, nimirum:

I. An in praedictu casu conclusiones Hymnorum et versus Responsorii brevis ad Primam esse debeant de ipsa Beata Maria Virgine?

II. Quae Praefatio in casu dicenda sit in Missa?

Et Sacra eadem Congregatio, ad relationem subscripti Secretarii, re mature perpensa, respondendum censuit:

Ad I. Affirmative, nisi dicenda sit propria Temporis, et exceptis Dominicis Adventus.

Ad II. Praefatio Trinitatis, nisi occurrat Praefatio de Tempore aut alicuius Octavae Domini, iuxta Novas Rubricas, tit. X., n. 4.

Atque ita rescripsit die 30 Decembris 1911.

FR. S. CARD. MARTINELLI, *Praefectus*.

✠ PETRUS LA FONTAINE, *Episc. Charystien., Secretarius*.

L. ✠ S.

## FEASTS OF DOUBLE MAJOR WITH OCTAVES

## DECRETUM

## DE FESTIS RITUS DUPLICIS MAIORIS OCTAVA CONDECORATIS

Quaedam Festa, quamvis perpauca, ritus Duplicis Maioris, pro aliqua particulari Ecclesia, transactis temporibus, Octava decorata fuerunt. Quum autem harum Octavarum celebratio novissimis Sanctae Sedis dispositionibus minime congruat, Sacra Rituum Congregatio, ad relationem subscripti Secretarii, audita sententia Commissionis Liturgicae, reque accurato examine perpensa, statuit et decrevit: Festa ritus duplicis maioris Octava gaudere nequeunt; et si quae huiusmodi Octavae iam concessae inveniantur, amodo declarantur suppressae. Atque ita servari praecepit die 30 Decembris 1911.

FR. S. CARD. MARTINELLI, *Praefectus*.

L. ✠ S.

✠ PETRUS LA FONTAINE, *Ep. Charystien., Secretarius*.

## WARNING OF THE SACRED CONGREGATION OF RITES

## MONITUM

Sacrae Rituum Congregationi visum est Rm̃os locorum Ordinarios certiores facere, eosque orare ut suis subditis notum faciant, nullius roboris esse *rescripta, responsa ad dubia, concessionis, declarationes cuiusque generis, privilegia, commentaria* nomine ipsius S. Congregationis evulgata, nisi, prout de iure, subsignata fuerint exclusive ab Eñmo Cardinali ipsi S. Congregationi Praefecto una cum S. ipsius Congregationis Secretario vel eius Substituto, aut, in casu necessitatis, saltem ab Eñmo Praefecto, vel a Secretario aut eius Substituto: Item nil esse commune inter S. Rituum Congregationem et cuiuscumque generis ephemerides rem liturgicam pertractantes, cum Sacra ipsa Congregatio, quoties promulgatione opus sit, ea quae statuerit, in Commentario officiali *Acta Apostolicae Sedis* ad tramitem Constitut. Ap. ‘*Promulgandi pontificias*’ inserenda curet.

Ex S. R. C. Secretaria, die 28 Ianuarii 1912.

✠ PETRUS LA FONTAINE, *Episc. Charystien., Secretarius.*

## NOTICES OF BOOKS

THE CATHOLIC ENCYCLOPEDIA. Vol. XII. London: Caxton Publishing Co. New York: Robert Appleton Co.

THE editors and publishers of this monumental work may be cordially congratulated on the rapid advance of their labours, now approaching completion. Three volumes more will have fulfilled their promise, and on the whole, we should add, nobly fulfilled it. If now and again we had to complain of defects or omissions we have always regarded the great undertaking with admiration and respect, and have cordially recommended it to our readers. Now that the work is so far advanced that we can judge of it as a whole we have no hesitation in saying with more conviction than ever that it will be an invaluable possession in the library of any Catholic, whether priest or layman.

Volume XII. takes us from *Philip II.* of Spain to *Reuss*, one of the small States of the German Empire. Amongst its principal contributors we notice the names of Father Budinhon, Mgr. Benigni, Georges Goyau, Edwin Burton, Gregory Cleary, William Fanning, S.J., Mgr. Kirsch, Father Michael Maher, S.J., Father Herbert Thurston, S.J., Father H. Bewerunge, Dr. O'Donnell of Raphoe, and Dr. O'Donnell of Maynooth, Father O'Kane, O.P., Professor Spahn, Dr. Grattan Flood, Professor Lennox, Dr. William Turner, Father Benedict Zimmerman. There is an article on the Venerable Oliver Plunkett, by the late Cardinal Patrick Francis Moran, which will help to revive the regret of all Irishmen at the departure from amongst us of so great, so good, and so learned a prelate and Prince of the Church. There is an article on the 'Priesthood' by Professor Pohle of Breslau which is worth the price of the whole volume. The articles of Mr. Edgar Prestage on Portuguese subjects are very valuable. Dr. O'Donnell, Bishop of Raphoe, gives an interesting account of his historic diocese, and Father O'Kane, O.P., a sketch of St. Raymond of Pennafort. Dr. M. J. O'Donnell of Maynooth writes on Possession (by the devil), and Mgr. Parkinson of Oscott, on Augustine Welby Pugin. Dr. John A. Ryan of St. Paul, has valuable articles on 'Poverty and Pauperism,' 'Theories of Population,' and the 'Encyclical *Rerum Novarum*.' Dr. Turner's articles on 'Plato,'



Pragmatism,' 'Tyrrhonism,' etc., deserve special praise. Father Bewerunge's paper on 'Plain Chant' is a masterly contribution, combining brevity and lucidity with a maximum of information. Nor should we pass over the very interesting and instructive contribution of Dr. Charles Souvay, C.M., on 'Plants in the Bible.' A splendid contribution also is that on Poland, by a distinguished Polish professor in the University of Cracow.

J. F. H.

KIRCHLICHES HANDLEXICON. Professor Buchberger, K. Hilgenreiner, J. B. Nisius, S.J., J. Schlecht, and A. Seider. Munich: Allgemeine Verlags-Gesellschaft.

THE utility of an encyclopedia needs no elaborate explanation, for it is obvious to everyone. Persons have not always an opportunity of consulting special treatises, and if they had they cannot always find time to read lengthy disquisitions; whereas the particular point on which they desire information at the moment may be sufficiently elucidated in a good encyclopedia. The popularity of such works and their increasing number is an indication that they supply what was a wide-felt want. At the present day they have reached a high degree of excellence, and on subjects in which ecclesiastics take a professional interest there are, besides the four great works now being issued in Paris, the *Dictionnaire de la Theologie* and its companions, the *Catholic Encyclopedia*, Herder's *Kirchenlexicon*, and others; nevertheless, the originators of the *Kirchliches Handlexicon* thought that there was still room for a work of ready reference, treating in compendious fashion all the subjects with which each of the others respectively deals more or less in detail. Of course the new work is not a compilation from other encyclopedias, but is, like them, partly the result of original research, partly drawn from the most approved sources. As it stands, it is a monument of German Catholic scholarship. Professor Buchberger and his assistant editors have carried out their plan well. Questions on Scripture, Assyriology, Egyptology, Jewish and Christian Archæology, Chronology, Ecclesiastical History and Geography, Canon Law, Liturgy, Hagiology, Biography, Statistics, etc., are here answered with a wealth of accurate knowledge that is sometimes surprising. But, as its name implies, the characteristic feature of the work is that it gives the amount of information likely to satisfy the average reader in the fewest words possible, compatibly with clearness. Its condensation makes it pre-eminently the busy man's book of

ready reference. The two volumes, each consisting of little more than a thousand pages, contain about six articles to the page. The work, which is nearing completion, will, it is calculated, contain more than twenty thousand articles. Forty-nine parts (each to be had for a shilling) have appeared, and about half a dozen more will end it. At present it has reached 'Veuillot.' The subjects were selected with great discrimination, and their treatment has been entrusted to competent writers in Germany and elsewhere. The list of contributors shows that more than two hundred eminent scholars and specialists took part in the work. In true German fashion the editors have economized space to a surprisingly large extent by the employment of symbols and contractions. Some readers will doubtless find them at first somewhat puzzling, even though a key is given. But after a time they become familiar, and the initial difficulty is counterbalanced by their convenience. To many the *Kirchliches Handlexicon* will come as the realization of a desire they have long entertained, and to such it is heartily recommended.

R. W.

Ʒuē ōn mḃpeaṭáin. Ƨaohz Ó Donnchada. Dublin: M. H. Gill and Son, Ltd. 1912.

THE little collection of Welsh songs translated into Irish by Tadhg O'Donoghue deserves a hearty welcome. 'Tórna' has gained a facile power over Irish metres through his long and patient study of eighteenth century poetry and in 'Ʒuē ōn mḃpeaṭáin' (*A Voice from Wales*) he displays it to advantage. He gives proof that the Ƨámpcoil blápnán has not as yet closed its doors. Whilst we trust that Irish poetry will develop as an instrument of expression of personal feeling and constructive thought, we cannot but welcome the attempt to evoke in it new moods by translation from other languages. Not that these Welsh poems reveal a mood foreign to Irish poetry, but rather they bring home to us the fact that Irish poetry had to some extent laid it aside amidst the political struggles of the seventeenth and eighteenth centuries. We have only to read Meyer's translations of Early Irish poems, or, better, the poems themselves, to see that the mood marked the very dawn of our literature. In addition to some anonymous ones 'Tórna' has rendered into Irish poems by the following Welshmen: Dafydd ap Gwilym (c. A.D. 1340-1400); William Tew (fl. 1430-1460); Richard Hayes (d. 1618); Gruffydd Phylip (c. 1620); Huw Morus (1622-1709);

Elis Wyn (1671-1734); Wil Hopcin (1701-1741); William Edwards (1790-1855); Daniel Evans (1792-1846); John Jones, 'Tegid' (1792-1852); John Blackwell (1797-1840); Evan James (1809-1892); John Hughes (1832-1887); Richard Davies (1833-1877); and amongst the living T. Gwynn Jones, Librarian, Aberystwith, and T. J. Williams, Head Master, St. Paul's School, Bangor. It will be seen that the list is a representative one, and stretches from the year 1340 to the present day. For those who would not understand the Welsh originals or the Irish translations, the following English rendering gives an idea both of the metre and of the love of nature of one of the Welsh poets as reflected in 'Tórna's' verse. 'Nant y Mynydd' ('The Mountain Stream') was written by John Hughes, a Welsh station-master, who died in 1887. 'Tórna's' Irish translation, 'An Spioctán Sléibhe,' will be found on page 32 of 'Súit ón mBheactáin':—

'Oh! would I were a mountain river  
'Tween rushy-fringed banks I'd fare,  
Nor ever cease my wanton prattling,  
Nor feel one single pang of care;

'Or would I were the mountain heather,  
My prayer for ever then would be,  
To flout in pride my purple colour,  
Wind-stirred on hills above the sea;

'Or would I were a bird high-soaring  
Over bare hills in clearest sky,  
My wild desire, my joy, my passion,  
From ridge to ridge untamed to fly;

'Far from the crowd my song composing  
Child of the mountain let me be!  
Here in its bosom rest my heart for ever,  
Where grows the heather and the birds are free.'

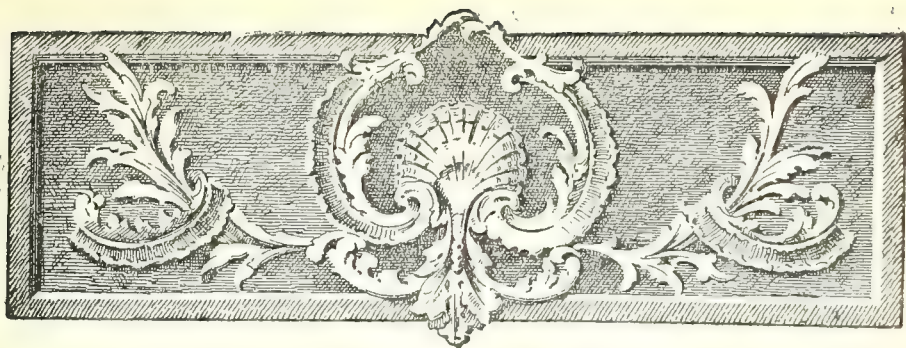
The last verse is as follows in 'Tórna's' translation:—

Feaḡ ve éineasó an tḡléibhe feasó mife  
Abḡasó ó baile veirigim vón;  
Aet tá mo époide irḡis ar na ḡléibtib  
I meapc na n-éan, 'ḡ an fḡasó as fár.

'Súit ón mBheactáin' is an interesting link between the literature of the Gael and the Cymry. Beiró an ló asḡainne fór.

P. M'S.





## SOCIALISM AND TAXATION

**U**NDER the Socialist State there would be no taxation in the strict sense of the word, since everything, or most things of importance, would be common property, the users of which would have to pay their annual value into the common treasury. Until the new era dawns, however, Socialists are great levellers, and favour taxes on property everywhere and in every way. They are restrained in countries like France, where their power is great, by the ingrained sense of the people who hold anything, and the fear of being cast off. Their theories and their practice are often in collision. The theories are for the platform, the practice for the Chamber. After all, they or their friends have often something they do not wish to part with. Many of them, indeed, are rich, and find the socialist cry useful to get into power, and then they let it sleep, or keep it up whilst they see it can never take effect. Meanwhile they enjoy life, and the people whom they dupe make little progress.<sup>1</sup>

It is, nevertheless, interesting to examine the right of the State to tax, and to tax in one way rather than another, property, income, food, luxuries or necessities, as the case

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<sup>1</sup> Although the Socialists are stronger in the French Parliament than in any of the other great Parliaments of Europe, they have been discussing the question of income tax for twenty years and have not yet adopted it.

may be. Property as between man and man is certainly inviolable. 'Furtum non facias.' He who takes his neighbour's property is a thief and a robber. There is only one case in which Christian law allows an individual to take the property of another without his consent, and that is the case of *extreme necessity*. All Catholic theologians and moralists are agreed on this point. Necessity has no law. Every man has a right to existence and to the means of existence. Hence if any man, whether through his own fault or not, is reduced to extreme necessity—if he is starving, or if his wife and family are starving, and he cannot secure by ordinary lawful means wherewith to meet his most pressing needs—he may take what is required for his immediate wants wherever he can find it. In that case he commits no robbery; he is no thief: he takes what is radically and essentially his due: he merely falls back on those primordial rights of which no man and no State can deprive him. It is clearly understood, however, that he may not lawfully take more than is necessary for his immediate relief. Those who are rich, who have a superfluity of earthly goods, are strictly bound, not in justice but in charity, and by a duty as solemn, as sacred, as binding as any laid down in the Gospel, to come to his aid. If they ignore that duty or fail to observe it, then, within the limits specified, justice concedes what charity refuses.

But if this is the law regarding individuals can the State go farther still? Can the State do what the individual cannot do? Can a statesman, with a safe conscience, and without any dread of feeling within himself that he is a robber and a thief, take from the rich more than is necessary to supply the need of those in extreme necessity? That is a question of morals which every man has to face who is placed in a position of power and responsibility.

Now, there seems no doubt that the State can go farther than the individual. Its function is, in this respect, according to St. Thomas, to supplement what is done by individuals, or by law, and enable the poor to get on

their legs and work out their own happiness.<sup>1</sup> The Divine law cannot clash with the law of nature : for both have the same author ; and as society is founded on the natural law it has from nature its right to an orderly existence. Any interference with property, in the case of an individual, beyond what we have described would disturb the foundations of society and upset its peaceful progress. In the case of the State the matter is different : and whilst the natural law does not entitle the State to confiscate the property of individuals, without any crime or injustice on their part, it does not forbid it to require that property shall contribute its share not only to the general order and well-being of the community, but to the supplementary service of which St. Thomas speaks. A statesman, moreover, who is charged with the burden of promoting social order and the welfare of the people as a whole, will be justified in taking into account whether or not the law of charity imposed by the Gospel on the rich is generally observed. If it is not, and if he should come to the conclusion that the patrimony of the poor is dissipated in luxurious living, in selfish and greedy isolation, in excessive pomp and display, in useless and unproductive pastimes, he will feel justified in leaning more heavily on the rich than if they were generous and charitable. He must take care, however, not to tamper with very sacred rights. What holds good for the individual in extreme necessity may not strictly hold good for him : nevertheless it implies a salutary warning to him also.

There are cases, indeed, in which the State, for some overwhelming reason, may require the owner of land to give it up, but never, in the ordinary course of things, without giving in return its full market value, and, if the case demands it, something over and above, in satisfaction for the compulsion that deprives him of a kind of property he may have long enjoyed and prefers to any other. The substance of the owner's property, however, must be respected as strictly by the State as by

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<sup>1</sup> ' Si quid inordinatum est corrigere, si quid deest supplere, si quid melius fieri potest perficere.'



the man in extreme necessity. For social reasons of a very urgent nature it may be bought out, but never wantonly confiscated. It stands inviolable as a whole, and the State no more than the individual can wrest it from its owner. The State cannot take the child from the father, the husband from the wife. It cannot take any man's life unless he has been guilty of some heinous crime. Neither can it take his property ; for his property is almost part of himself, the prolongation of himself, the result of his industry, his ingenuity, his bravery, his heroism, his sacrifice, his distinguished service, his labour, or of those who went before him and from whom he has lawfully inherited it. It is for the good of society in general, of poor as well as rich, that it should be intangible and beyond dispute. It is the great motor-plant of industry and enterprise. It is the beacon-light of all healthy ambition. It is part of the wealth of the nation which should be safeguarded and preserved rather than dissipated or destroyed. Any serious blow inflicted on it saps the foundation of progress, weakens the energy of the healthy citizen, and affords an excuse for idleness, turbulence, and anarchy. This right to property in general is based on the natural law directly, and the right to distinct, separate and individual or private property, in so far as it is distinct, on that derivative of the natural law which has developed into the 'jus gentium' that 'aliquid naturae superadditum' of which St. Thomas speaks. For the right of organized society to an orderly and peaceful existence comes from nature. In addition to this, reason and experience have discovered the universal contingent fact that unless property justly claimed is justly delimited and secured to its owner, society cannot enjoy that orderly existence to which it is<sup>7</sup>entitled. This fact of observation if not a law of nature in the strict sense is very close to it. Putting both together, it may be said in a broad sense that the right of private and individual property to inviolable security is based on the law of nature.<sup>1</sup>

<sup>1</sup> Pope Leo XIII. says : ' Merito igitur universitas humani generis dissentientibus paucorum opinionibus nihil admodum mota, studioseque naturam intuens in ipsius lege naturae fundamentum reperit partitionis bonorum,'—*Rerum Novarum*.

Fault has been found with St. Thomas<sup>1</sup> by more than one Catholic writer<sup>2</sup> for having failed to base on the law of nature absolutely the right to private property in land. The abstract right, of course, they say, he admits to be so founded, but the concrete right in individual cases he seems only partially to derive from it. In this he has been followed by his faithful interpreter in our own day, the late Cardinal Zigliara.<sup>3</sup> Yet we are referred to Suarez in his treatise *De Legibus* for a more precise notion of the law of nature, and to the Encyclical *Rerum Novarum* of Pope Leo XIII. for the unqualified assertion that the right to property in land as well as any other is founded on the natural law. In reality St. Thomas does found the right to property on the natural law; but he also founds the duty of dividing property and guaranteeing to each one his just share, according to his rights, on the 'law of nations.'

But whilst property has its rights it has also its duties, and it is only on condition that it discharges these duties that it can make good its claim to protection. If one individual, for instance, should make what is called 'a corner' in wheat in a whole district or territory, and so raise the price of bread as to make a vast fortune for himself, whilst at the same time he reduces to starvation, or the verge of it, large numbers of poor people, it is absurd to contend that the State has no right to limit his power of mischief, or so to curtail his operations as to bring them into consonance with the elementary rights of others. Still more would this be the case if a number of rich individuals formed a syndicate and extended this system of oppression to a wider area, whilst the climax would be reached if these various syndicates formed themselves into a 'trust' and controlled the price of the same commodity over the whole nation, and perhaps outside it. It is, of course, for the wisdom of the statesmen and rulers of the nation to judge, according to sound principles of

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<sup>1</sup> *Summa*, 2<sup>a</sup>, 2<sup>is</sup>, quæst. 66, art. ii.

<sup>2</sup> See Henri Joly, *Le Socialisme Chrétien*, pp. 116, 133.

<sup>3</sup> *Summa Philosophica*, vol. iii. p. 121.

justice and morality, how far these corporate bodies exceed the limits of natural or social rights, and whether by legislation or taxation or both, to bring them within the borders of justice and equity. For not all monopolists, syndicates and trusts sin, or sin in the same way and to the same extent. The remedy may be different in different cases. Trusts controlling the distribution of coal, wood, copper, steel, oil, or shipping, may need to be dealt with differently from those that control milk, bread, meat, coffee, fire, salt, or clothing. It is even conceivable that trusts would carry out, in some cases, very beneficent undertakings—works on a large scale, which neither syndicates nor individuals could manage so systematically, so efficiently, or so much to the benefit of the public at large.

The State is governed by individuals, amongst whom there must be unity of action and a common agreement. This unity must be centred in one or, at most, in a few heads. It must be maintained and its action guided by them. The ordinary work of defending the existence and the rights of the commonwealth and of maintaining order amongst the citizens is already a severe tax upon their energies. If, in addition to their multitudinous occupations, they were to undertake vast industrial enterprises and embark on all sorts of experiments they would do this work very badly, or else have to neglect the main object of their existence. There must, therefore, be an outlet for the energies of individuals in the first place, and for the combined energies of bodies of intelligent citizens in the next, to explore the natural resources of the nation, and turn them to the best account. The State that would either undertake all these operations itself, or hinder its citizens from undertaking them, wherever legitimate profit is to be derived from them, would sign the death-warrant of all progress within its boundaries. Hence rich and powerful individuals may very lawfully combine to pierce an isthmus, to bore a mountain, to irrigate desert wastes, to reclaim primeval forests, marshes or fens, to explore the mineral wealth of the crust of the earth, and they might deserve the protection and support of the State; and be



entitled to profits commensurate with their risks, their enterprise, and the services they render to the public. But when they form themselves into trusts to control the prices of the necessities of life or commodities of common utility they at once become suspicious, dangerous, and need to be closely watched, and, if necessary, disrupted and dissolved. For then their object usually is to secure large profits and make rapid fortunes by means that are opposed to the law of nature and the law of God.

What we have said of corn, bread, clothing, and the common utilities of life may be said with stronger reason still of the land which, in the last resort, supplies them all. There could be no greater deordination, nothing more opposed to the evident designs of a beneficent Providence, than that the land of a nation blessed with a rich and fertile soil should be monopolized by a few individuals, or by a comparatively small number, who would turn its product and its fruits to their own exclusive benefit, to satisfy not only their needs but their whims, their spendthrift habits, their love of pomp and splendour, whilst the great mass of the people who were born on the same soil and made it fruitful by their sweat, are condemned to live in poverty, to emigrate, or to starve. We know of nothing in the natural or divine law to prevent the statesman from intervening in such a case and setting matters right as far as human foresight and prudence will admit. Rather we should say it is a sacred duty that he should so interfere, provided he does not confiscate just rights or curtail unduly those which the law had hitherto sanctioned. On the other hand, Pope Leo XIII., in his Encyclical *Immortale Dei*, on 'The Christian Constitution of States,' whilst condemning the unbridled licence which passes for liberty in so many countries in our day, strenuously defends liberty rightly understood, and warns statesmen in their own interest and in the interest of their peoples not to push the interference of the 'supreme republic' too far. The Church has invariably stood for the liberties of corporations, municipalities, and guilds once duly conferred, and has always recognized in them a strong bulwark against

the tyranny of princes and statesmen, and a powerful safeguard of the honour and security of the person and of the equality of citizens before the law. The same is still more true of the family, and of the individual in regard to those rights that have their root in nature itself.<sup>1</sup> This, however, does not imply that the 'supreme republic' has not the power to keep all such bodies within legitimate bounds or to insist on their doing their duty to the commonwealth. And in his Encyclical *Rerum Novarum* 'On the Condition of Labour,' whilst the Pope impresses on statesmen and politicians that without religion the social question is beyond the power of men to solve, he impresses on the faithful with equal force the wisdom of demanding as little as possible from the State 'once they have obtained what is necessary to reform abuses and avert dangers.'<sup>2</sup>

Pope Leo reminds us, however, that the duty of the State is both by legislation and administration to promote the prosperity of the people committed to its care, and to have particular concern for the poor, who most need its watchful protection. It should ever consult the common good and strive to advance it. The more it does this by sound laws, based on justice and Christian principle, the less need will there be for special laws for any class, even for the poor. It should see to it, however, that the labouring classes, who contribute so much to the public welfare, should be clad, housed, and made secure from want. This instead of injuring anyone is to the advantage of all, and of the highest importance to the commonwealth.

But in order to ensure the safety of the society committed to its care, public order, the welfare of the whole

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<sup>1</sup> 'Atqui honestam hanc et homini dignam libertatem Ecclesia probat omnium maxime, eamque ut tueretur in populis firmam atque integram, eniti et contendere nunquam destitit. Revera quae res in civitate plurimum ad communem salutem possunt; quae sunt contra licentiam principum populo male consulentium utiliter institutae; quae summam rem publicam vetant in municipalem, vel domesticam rem importunius invadere; quae valent ad decus, ad personam hominis, ad aequabilitatem juris in singulis civibus conservandam, earum rerum omnium Ecclesiam catholicam vel inventricem, vel auspicem, vel custodem semper fuisse superiorum aetatum monumenta testantur.'

<sup>2</sup> 'Non plura suscipienda legibus, nec ultra progrediendum, quam incommodorum sanatio, vel periculi depulsio requirat.'

community and of its constituent parts, the State has need of resources. It must have money. It cannot carry out its functions without it. It must levy taxes. And here is the bone of contention. On what principle are taxes to be levied? Here the interests of classes, of orders, of organizations, of powerful bodies of citizens, of individuals, often clash and come into violent collision. Has the Church any light to throw on the rights and wrongs of these conflicts? Has any general law been sanctioned or any general principle been formulated which may serve either to guide or help the statesman in fixing the amount, the object, the subject, or the incidence of the tax. These are matters in which the Church, as a rule, is loath to interfere. Catholic philosophers and moralists for the most part confine themselves to general recommendations, and leave to the wisdom and ingenuity of statesmen the details of their various and complex schemes. In general any system that has the effect of confiscating property or capital is condemned. For instance, there are or were socialists who proposed that 'whenever income was doubled taxation should be tripled.' The absurdity of this proposal may be judged from the following Table. Suppose income pays five per cent., the result for ten years would be as follows:—

1.	£100	£5
2.	200	15
3.	400	45
4.	800	135
5.	1,600	405
6.	3,200	1,215
7.	6,400	3,645
8.	12,800	10,935
9.	25,600	32,805

Before the ten years are up all income is wiped out, following this rough computation. In reality it would be much sooner arrested, for no man with such a prospect before him would continue the experiment to the end.

This shows the fatuity of many similar proposals.



As every subject of the State receives from it, or is supposed to receive from it, protection, defence, justice, and all the advantages of order and a settled civilization, it is but natural that each one should contribute his share to the general expenditure. Why should not the poorest citizen pay something towards security as well as purchase the bread that supports him? And yet it has been truly said that social order and its attendant blessings cannot be dealt out by retail like tea and sugar. Hence social order and natural justice may require that the very poor should be exempted from taxation altogether, lest they should be crushed outright, sink into the ranks of pauperism, and become a burden rather than a productive force.

Taxation has been variously defined, and there have been homeric battles<sup>1</sup> between economists as to its true nature and the principles on which it should be imposed. It varies in different countries, according to their different juridical and fiscal systems, developing from traditional services in one way here, in another there. As a rule Catholic writers demand of it *justice, moderation, proportion, precision, sufficient publicity, and economy in collection.*<sup>2</sup> They generally incline to the principle that it should be levied on revenue rather than on capital: and all admit that a wide discretion must be left to the statesman. Adam Smith laid down a few general principles regarding it which have been generally followed in these countries, and have found almost universal acceptance.

1°. That the tax should be certain and not arbitrary. The time of payment, the manner of payment, the quantity to be paid, ought all to be clear and plain to the contributors and to every other person.

2°. Every tax ought to be levied at the time or in the manner in which it is most likely to be convenient for the contributor to pay it.

3°. Every tax ought to be so contrived as both to take out and keep out of the pockets of the people as little as

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<sup>1</sup> See Bastable's *Public Finance*, pp. 169-190.

<sup>2</sup> *Manuel de Sociologie Catholique*, par R. P. A. Bellot, O.F.M., p. 191.

possible over and above what it brings into the public treasury of the State.<sup>1</sup>

Ability to pay, equality of sacrifice, facility of collection, are considerations that the practical statesman must always keep in mind. Every system, however perfect, has always something arbitrary about it. There seems no great reason why pianos should be taxed while violins are free, or that cards should pay whilst dice are exempt, as is the case in France. Yet, as the State has a right to impose the tax, and the subject the duty to pay it, no injustice is done by this discrimination. There must be latitude in the choice, and provided it is made on some principle that is not affected by self-interest, there is no injustice in selecting what is convenient and most effective for its purpose, provided the general interest is kept in view in choosing it. Common sense dictates that taxes which prove injurious to industry and to the general welfare should not be continued. Taxes on capital are all very well; but if they drive the people who own capital to countries where taxation is lighter they defeat their object. Nor is it just or economic (for what is just is always economic) that property or capital should be confiscated by taxation. The State has no right to rob any more than the individual. And to deprive a man of property lawfully acquired, or of capital lawfully obtained, or to hinder him from transmitting such property or capital to his heirs, is simply to rob him. It is unjust, immoral, and criminal. If a man in the full exercise of his powers, of his industry, his intelligence, his genius, violating no law of God or nature, taking advantage of the laws of his country such as they are, succeeds in amassing a large fortune, he is assuredly entitled to the enjoyment of it, and neither State nor individual has a right to deprive him of it. You may think that such large fortunes are an injury, and that the law facilitates their accumulation too freely. If such be the case then change your laws, but you have no right to lay profane hands on the sacred possession of a citizen who has violated none of them.

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<sup>1</sup> See also further canons in *The Principles and Methods of Taxation* by G. Armitage-Smith, pp. 54, 55.

If taxation of income is not sufficient for the public services then the law of 'extreme necessity' in regard to property will have to be borne in mind. Property can only be laid hold of by the public powers in cases of necessity of a very urgent kind, such as the extremities of war, famine or public calamities. Then the right of the individual must yield to the more fundamental and vital right of the mass. 'Salus populi suprema lex,' and if the State has the duty imposed upon it of seeing to the safety of its citizens it must naturally have the means of doing so, even if this implies taking something from those who have more than they need, provided it is done moderately, equitably, without favour, and avoiding as far as possible any serious encroachment on the substance of the capital or property.<sup>1</sup>

Among the many causes of poverty and misery in the world the evil use of capital is undoubtedly one of the greatest. The ardour displayed in search of it and the dishonest means employed in securing it are distinctive marks of the present age. 'Malum auxit usura vorax,' says Leo XIII. The small usurer rises gradually in the scale till he becomes a great financier and becomes associated with greater and older sharks than himself. In combination they rig the market, bear and bull and bluff, and accumulate. They float loans and become the creditors and masters of the State itself. They get hold of the press and of the land, and manipulate politics, until they make of their wealth a tyranny and a pestilence. The practical statesman who has to balance budgets cannot look too closely into the origin of the fortunes that are made in this way; but he cannot ignore their origin altogether; for they bring with them many plagues into society—the cult of money, the cult of pleasure, the gambling spirit, the loss of moral sense, callous indifference to the sufferings of the poor, administrative and electoral corruption, paganism in education, unbridled licence, and as a result of all, and worst of all, *socialism*, which appears as a reaction, but

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<sup>1</sup> Under the old law neither people nor judge nor king had a right to seize the property of an individual, even in the case of a public calamity, without some sort of equivalent.



involves in its principles and its programme worse evils than all the others put together. No matter how colossal fortunes are made, even though they are the result of fair and honourable dealing in all respects, they may reach such proportions as to be a danger to society and the State itself. It then becomes the duty of the State to guard by legislation against such accumulations in the future, although this is a delicate and perilous undertaking enough, and, if needs be, to have recourse to the device, which is also not without its dangers, of progressive or graduated taxation.

Great though the dangers of graduated taxation may be, it seems, nevertheless, justified when applied within proper limits. For though property is sacred, and the wanton confiscation of property is robbery, yet society must protect itself and the State must protect its citizens. If their liberty, their happiness, their welfare, temporal or spiritual, are injuriously affected by the accumulation in the hands of a few of the chief national wealth a readjustment of the circumstances that have produced that wealth to the extent required to avert the danger is clearly within its competence. And even when fortunes have not reached the colossal stage, but are still large and substantial, they make so many demands for their protection on the public powers and on the organized life of society that it is but natural they should be required to contribute on a higher scale to the public needs, to the support and advancement of the destitute and needy, and to the expenses of public order. In reality property can only be guaranteed and protected on condition that these primary functions of the State are adequately provided for.

Progressive taxation may be realized by heavy taxes on luxuries consumed by the rich, on the finer kinds of commodities, by death duties and succession duties, by stamp duties on commercial transactions, and by progressive income and property taxes. It is almost an impossibility to frame a scheme of progressive taxation in practice that will not be to a great extent arbitrary. Where will you draw the line? Where will you find a self-acting principle to determine the rate of progression? Hitherto neither statesmen nor

economists have found it. One of its drawbacks is that it lends itself indefinitely to the machinations of agitators and politicians. The objections to it were powerfully formulated by the late Mr. Lecky :—

It is obvious [he writes] that a graduated tax is a direct penalty imposed on saving and industry, a direct premium offered to idleness and extravagance. It discourages the very habits and qualities which it is most in the interest of the State to foster, and it is certain to operate forcibly where fortunes approach the limits at which a higher scale of taxation begins. It is a strong inducement at that period either to cease work or to cease to save. It is at the same time perfectly arbitrary. When the principle of taxing all fortunes on the same rate of computation is abandoned, no definite rule or principle remains. At what point the higher scale is to begin, or to what degree it is to be raised, depends wholly on the policy of governments and the balance of parties. The ascending scale may at first be very moderate, but it may, at any time, when fresh taxes are required, be made more severe, till it reaches or approaches the point of confiscation. No fixed line or amount of graduation can be maintained upon principle or with any chance of finality. The whole matter will depend upon the interests and wishes of the electors, upon party politicians seeking for a cry and competing for the votes of very poor and very ignorant men. Under such a system all large properties may be easily made unsafe, and an insecurity may arise fatal to all great financial undertakings. The most serious restraint on parliamentary extravagance will at the same time be taken away, and majorities will be invested with the easiest and most powerful instrument of oppression. Highly graduated taxation realizes most completely the supreme danger of democracy, creating a state of things in which one class imposes on another burdens which it is not asked to share, and impels into vast schemes of extravagance under the belief that the whole cost will be thrown upon others. The belief is, no doubt, very fallacious, but it is very natural, and it lends itself most easily to the claptrap of dishonest politicians. Such men will have no difficulty in drawing impressive contrasts between the luxury of the rich and the necessities of the poor, and in persuading ignorant men that there can be no harm in throwing great burdens of exceptional taxation on a few men who will still remain immeasurably richer than themselves.

Yet no truth of political economy is more certain than that a heavy taxation of capital, which starves industry and employment, will fall most severely on the poor. Graduated taxation, if it is excessive or frequently raised is inevitably largely drawn from capital. It discourages its accumulation. It produces an insecurity which is fatal to its stability, and it is certain to drive great masses of it to other lands.<sup>1</sup>

Without wishing in the least to minimize the weight of these considerations we think that, in view of the disturbing effect of very large fortunes on the general community and the numerous other inconveniences arising from the concentration of capital in the hands of a few, it is only fair that they should contribute to taxation not only a proportionate share but also a share calculated on a higher grade once what may be called luxury fortunes begin. If there is to be equality of sacrifice an impost of £10 on an income of £100 is more severely felt than one of £10,000 on an income of £100,000. The progression, however, must not go the length of spoliation. It must respect the substance of the property, whether capital or income.

During the industrial period of last century the 'extreme necessity' theory was extended from the individual to the State, and it was maintained that organized society had done its duty when it provided 'workhouses' for the failures and the unfortunate. We do not think it had. We think that if, in spite of all the efforts of public and private charity, there are large numbers of citizens who are badly housed, badly clad, and badly fed; if there are in the cities slums where children grow up delicate and diseased, exposed to all sorts of epidemics and to an early death; if there are crowds of men, and women too, able and willing to work, but unable to find employment—it is clearly the duty of the State to help them to a better condition of life, to try to set them on their feet, and start them on an economic career. And if that duty is imposed on the State it must have the means of accomplishing it. If proportional and digressive taxation is found insufficient for the purpose, then progressive taxation within the limits we have specified becomes necessary

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<sup>1</sup> *Democracy and Liberty*, vol. i. pp. 286, 287.



and legitimate. There are other causes also which would readily justify it. And in many respects its application seems the fairest and most effective method of counteracting the abuses of plutocratic wealth. Indeed at the present day there is scarcely an economist or moralist that will not admit, with some restrictions, its advantages and lawfulness. Mr. Lecky does so when it is applied in moderation. Mr. Bastable,<sup>1</sup> whilst calling attention like Mr. Lecky to its dangers, and having made a very judicial examination of the 'pros and cons,' does not condemn it altogether. Amongst orthodox Catholic writers Count Soderini,<sup>2</sup> in his very able work on *Socialism and Catholicism*, gives it a mild approval. During the course of last century such writers as Mill<sup>3</sup> and M'Culloch<sup>4</sup> set their faces against it: but their hard and heartless reasoning has been belied by facts.

Nor can we admit that the principle of socialism is in any way involved in the progressive tax considered in itself. It would only enter when the State either aimed at the equalization of properties, which in the long run would mean the equalization of misery, and had recourse to a drastic progressive tax in order to bring it about, or sought by the same means to extend its bureaucratic rule and bring, by bribery and corruption, an immense number of citizens under its absolute sway. It is foolish to contend that what the State needs for its legitimate and praiseworthy objects is levied on a socialistic principle when it has recourse to the progressive tax, or that it is a matter of more or less, and that once the State interferes with property at all there is no reason why it should not go the whole length of the socialist programme. It cannot: for that would be spoliation and robbery. It would be taking from one set of citizens whose property must be regarded either proximately or remotely as the result of extraordinary intelligence, industry and ability, in order to give to another set who are more numerous, who happen to have more votes, and who,

<sup>1</sup> *Public Finance*, p. 316. He has reached an unfavourable conclusion in regard to it, but does not absolutely condemn it.

<sup>2</sup> *Socialismo e Cattolicismo*, p. 446.

<sup>3</sup> *Principles of Political Economy*, v. 3.

<sup>4</sup> *Taxation*, 65.

for the most part, do not need it. It would crush industry at its vital point. It would go against the grain of human nature, which makes great efforts in the hope of acquiring great rewards. Nor is it in the interest either of the poor or the middle classes. It would ruin the former, and no man of spirit who has got clear of penury would sacrifice his liberty for the prospect of reaching common mediocrity and taking upon his soul as well as his body the yoke of the State.

Besides the progressive tax on riches there are other methods of levying special taxes on the wealthy—taxes on carriages, motor-cars, windows, horses, furs, and various other objects of luxury. These taxes, however, are not very popular, because they bring little into the treasury, and are particularly irksome. They may not be less justifiable on that account; but when they take the form of sumptuary laws in the full sense they have never been very successful. In Ancient Rome the '*Laws of the Twelve Tables*' restricted the expenses of funerals; the '*Lex Oppia*' forbade Roman matrons to wear garments of many colours, gold ornaments on the body, or to have more than a specified number of cooks; the '*Lex Orchia*' limited the expenses of banquets and the number of guests—laws which were not observed, and the observance of which it was almost impossible to enforce.

Another question that has arisen in an acute form in our day in relation to property and taxation is that of the 'unearned increment' and what is called the 'betterment tax.' Mill, who was opposed to the progressive tax in its general form, was a believer in the 'betterment tax.' According to him the value of land has a natural tendency to increase through the progress of society and without any exertion or sacrifice on the part of the owner, and he held that this increase should be intercepted and appropriated by the State. But the 'unearned increment' is not peculiar to land. The growth of population and advance of industry have the same effect not only on railways and shipping companies, but on the incomes of professional men, of artists, of officials, and of shareholders in all sorts of industrial concerns. Why confine the tax to land? We

do not say the tax is necessarily unjust : but if it is to be justly imposed it should be imposed on all sorts of 'betterment.' Then if the value of land goes down are the owners to be recouped ? In any case Mill's theory has gone down, like so many other theories of his, before the logic of events. According to Sir Robert Giffen land in England constituted in 1690 about 60 per cent. of the national wealth. In the United Kingdom it constituted in 1884 only 17 per cent. The 'unearned increment' is more striking, no doubt, in regard to municipal property than any other, and there the tax is justified, provided the 'betterment' on which it is levied is made out on just lines by an impartial tribunal, and is not left to the arbitrary reckoning of interested parties.

When the municipality by a large outlay so improves a quarter or district of a city that the value of the ground and house property in the neighbourhood is vastly increased, it is not fair that all that increase should go into the pockets of the owners, who have contributed to it nothing more than other citizens. Neither would it be fair that the whole increase should be intercepted. The question is a complex one, involving many considerations, and should not be left altogether to the sweet will of one of the parties to decide. It is really the duty of the State to provide a suitable tribunal for the purpose.

We live, indeed, in changing and stirring times, when all things seem to be thrown into the melting-pot.

Let anyone observe [wrote Mr. Lecky] how steadily and rapidly the stable forces which in old days shaped and guided the course of English politics are losing their influence. Let him watch closely a great popular election, and observe how largely the chance of a candidate depends upon his skill in appealing to the direct and immediate interests, or supposed interests, of large sections of the electorate : in making use of claptrap and popular cries ; in inflaming class animosities and antipathies, and pledging himself so far as to conciliate many distinct groups of faddists. Let him then observe how Parliament is breaking up into small groups ; how the permanent forces of intelligence and property, which once enabled governments to pursue their paths inde-



pendently of fluctuating or transient gusts of ignorant opinion, are weakened ; how large a part of legislation, especially in the closing years of a Parliament, is manifestly intended for mere electioneering purposes ; how very few public men look beyond the interests of their party and the chances of an election. He must be a sanguine man who can look across such a scene with much confidence in the future.<sup>1</sup>

He must, indeed. It is appalling to what a society without religion may come to. Let the world return to religion and to Christ, says Leo XIII. Let the peoples make laws inspired by Christian principles and put them in practice, and there will be less need for special legislation for different classes. Let the spirit of Christian love and brotherhood be infused into the hearts of men, and they will learn to bear their burdens of poverty or wealth with equal fortitude, to act the part of upright and honourable citizens, and contribute each in their way to the smooth working of the social machine, to the happiness and prosperity of their fellow-men. If this spirit is ignored or rejected we may expect nothing but a return to the ages of barbarism.

J. F. HOGAN, D.D.

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<sup>1</sup> *Democracy and Liberty*, vol. i. p. 184

## A NOVELIST'S SERMONS—III

## TIME'S REPRISALS

IN a very entertaining paper, that appeared some ten or a dozen years ago in the *Cornhill Magazine*, it was remarked that *Christian Science* is so called for reasons that remind us of the name of the guinea-pig, which is not a pig and neither comes from Guinea nor costs twenty-one shillings: so the religion invented by Mrs. Eddy is not a science, and has nothing to do with Christianity.

If it were scientific it would have fewer followers, and its remoteness from Christianity may account for its having so many. The 'religionists' of the present time seem intuitively aware that novelty is their only chance; and, so far from standing on the old ways, their most feverish aim is to strike out paths that may at least appear original. Even those who hoped to work inside the Catholic Church, and would have worked but for their detection, had the same object: an object, one may observe, totally different from that professed by heresiarchs of a less irritable age. The pretence of most, if not all, Protestant '*reformers*,' whose reformation (unlike proverbial charity) never troubled itself to begin at home, was that of an appeal to primitive Christianity. The pretence was false, and only passed for true among the ignorant, who knew as little about primitive Christianity as they cared for the real reformation of the Christianity of their own day: but the appeal was respectable in form, however it may have been insincere in fact. Even Döllinger, much nearer the present day, sought to obtain for his fellow-rebels some cloak of respectability by calling them Old Catholics, in the fond hope that the Universal Church and its Head might thus be made to appear as consisting of New Catholics, who had in some way wandered into novelty, and by such wandering lost just claim to be Catholics at all.

Whether Döllinger's erudition saved him from, in his secret heart, lapsing into hersey may be doubted, and it

certainly did not save him from falling into schism : but he was not at any rate shallow enough to sink into the bathos of Modernism.

A learned priest who suffers himself to succumb to a determination of self to the brain, and refuses to submit to the Voice of Christ speaking through His earthly vicergerent, can no longer care as much for Christ as he cares for his own vanity : but it may be surmised that Döllinger would have cared enough for Christianity to have been sincerely disgusted by the Modernists, had their voice been audible in his day. Obstinate as he was, and self-satisfied as he was, he was too clear-sighted not to have known that Modernism is merely an attempt to explain away Christianity in such a fashion as to make it palatable to those who dislike Christianity. With all his fatal faults he was not puzzle-headed : and he knew well enough that black and white can never be interchanged : the whitening of black can only result in a dirty or obscure grey.

The pretext of Modernism and its congeners is that the gate of truth should be made wide, so as to admit those whose mental conformation renders entrance by a narrow door difficult. But it does not seem to strike them that there is a breadth which can only find admission by a total razing of walls. After all, the building is of more moment than any gate of it ; and, when all the sides shall have vanished, and the roof have been taken off (to admit the tallest figures), and the foundations tampered with—as unnecessary when the weight of the superstructure has been correspondingly reduced—there is not much building left.

Modernism affects to be an intra-moral affair, and as such it concerns us. But there are, in fact, Modernists who are proud to be outside. In Nonconformity, and among dignitaries of the Anglican Establishment, are those who have its objects tenderly at heart.

The vitality of truth is so innate and so robust, that even the retention of some vestiges of it acts as a pickle or preservative, though vestiges alone can no more keep permanently alive a body that retains only such extracts of truth than salt can make the liveliest pig, once deceased,



anything but bacon. Thus certain of the 'Reformed Churches' at the time of their suicide, which was that of their nominal birth, retained, or tried to retain, so much at least of Christianity as served to stave off their predestined end. The first step of their life was a step towards their inevitable grave; the first 'muling and puking' of their infancy had already the choke of a death-rattle in it, but the agony was to be long—as, I think, for the reason at which I have hinted.

English Protestantism professed to hold fast much of the integral faith of that Church from which it shook itself free: it flung away five out of seven sacraments, but loudly affirmed that it kept the two best; it turned from God's mother, but did not openly assail the Divinity of her Son; it fell into insolent revolt against Christ's Vicar, but it did not dare to explain away either Himself, His virginal birth, or His Resurrection. On such isolated scraps of truth as it clutched at it lived on, though marked with the fatal blain of plague and inexorable death.

But who that says to the black waters of untruth, 'thus far and no further' is ever heeded? I never heard that Canute was a theologian, but he knew better than that. The rising tide respects no throne that sets itself upon the fickle sandy shore. Henry VIII. was a theologian, his title of Defender of the Faith is a livid mark upon his wretched forehead now: he was no Protestant: he knew all about that, as the devil does; his son was knock-kneed Protestant enough; and his virginal daughter was a bad woman, but not a bad Catholic like her wicked father; none of the precious triad aimed at flinging the Scriptures to the swine, though they snatched them out of the hands of the Church that had kept them for the world through all the 'darkness of the dark ages': Henry would not have them jangled by clowns in every ale-shop; his reformers, whose aims were widely different from his own, had no objection to such jangling, but they at least made much of the Scriptures. It was their pretence that the Church was at issue with the Bible, and they preferred the Bible, setting it upon a pillar in the midst of their tabernacles, as about the only sacred

thing worth retaining. Their pretence was singularly foolish, as it was necessarily insincere : for, if the Bible was the one thing of which the Church was afraid, the arch-enemy of her claims, and the obvious antidote to her doctrine, how unaccountable that she, with all the guile wherewith they credited her, and she alone, should have treasured it down the ages and kept it intact for posterity !

Where would the Scriptures be but for her and her monks ? How easy a thing it would have been, during those ages that the last three or four centuries love to call dark, for the Church to have smothered the Bible altogether, when there was no learning anywhere but hers, and all letters were her monopoly. In the slow irony of fate it is odd to note that it is at the hands of Protestant sectaries that the Scriptures have met with assault, and that now the Church that guarded them for the modern world is the sole and unflinching champion of their integrity. The descendants of Luther have striven to boil them down to a gelatinous pudding, innutritious as it is flabby.

When England started on her eccentric orbit of independence in defiance of the central sun of Christianity, she seemed resolved to hold sacred two things in memory of her former religion : the Bible and the observance of Sunday. Her attitude to both may have been marked by the exaggeration of superstition : the Bible she seemed to imagine had dropped down from heaven, in English, with gilt edges, straight into the lap of James I. ; and her Sunday might seem more connected with Moses than with Christ. Still she did revere both, and held them as sacred things which man's petulance or self-indulgence was not to tamper with. All that has changed, and with a change so rapid that one need not be old to be able to note its strides. Forty years ago almost every English man or woman who could read, and hundreds of thousands who could not, would instantly recognize any quotation, though it were only that of a phrase, from the Bible : and for the simple reason that those who could read did read the Bible, and those who could not went habitually to church. It is quite different now. Both habits have fallen into disuse, and both are falling yearly

into a disuse more complete. You may borrow a phrase, or an illustration, from the Scriptures and they will admire your originality, and wonder at the vigorous force of your ideas and without a suspicion that you are borrowing from the wisdom whence Solomon's was borrowed.

Again: even dignitaries of the Anglican Church are heard smoothly explaining away such central doctrines of Christianity as their forbears would have been furious at the idea of abandoning as monopolies to the Catholic Church, e.g., the Virginal Birth of Christ, and the fact of His Resurrection. Old Protestants had an odd leaning to St. Paul—because, I suppose, he was not St. Peter—what would they have thought had they foreseen that a day would come when their descendants would forget how their beloved Apostle of the Gentiles cried aloud: ‘If Christ be not risen again, then is our preaching vain, and your faith is also vain . . . if Christ be not risen again, your faith is vain, for you are yet in your sins. Then they also that are fallen asleep in Christ are perished. If *in this life only* we have hope in Christ, we are of all men most miserable.’

The so-called Christian sects which are spoken of collectively in England as Nonconformists, descend from founders even more exclusively devoted to the Scriptures than were the founders of the Anglican Establishment. The latter made almost everything of the Bible, the former made quite everything: they, for the most part, cared as little for two sacraments as for seven: they wanted no sacraments, and they wanted no dogma, no ‘articles,’ no liturgy, no holy orders; the Bible was to be the one and sole ark of their salvation: and it required no interpretation, for it interprets itself: the plainest and most literal sense of every line of it was to be accepted, and to do their business without priest or paraphrase. Now the Nonconformist ministers are the readiest to slaver over the ‘New Criticism,’ and having half-masticated it themselves, slobber it out of their pulpits for the spiritual feeding of their flocks. That they should be the readiest is natural enough: for they are the least educated. I suppose no religion in the world had ever such under-educated exponents as the ministers of



Protestant dissent. They are the staring-stock of Moham-medan *sheikh* and Buddhist and Hindu priest through all the East, whither they go to convert them.

But it is the simple fact that the Nonconformist laity is for the most part scandalized and astounded at the rationalistic treatment of the Bible to which they are being forced to listen in their meeting-houses. This, then, is how the Protestant boast of the Bible is ending.

The system, and group of systems, that professed to need it and nothing else but it, only uses it now to turn all its substance into shadow, or neglects it altogether more and more completely. The religions which cared for nothing but 'faith' are hurriedly stripping themselves of all that is the objective of faith, by flinging from themselves all that is supernatural. It is *they*, not the Catholic Church (hereditary foe of the Scriptures, as they would make her out) that would melt the Old Testament and the New down into graceful allegories; and would thus leave of God nothing but a Name, and of Christ nothing but an Idea.

Thus has boasted faith subsided to a loose surmise; thus has a tough revolt rotted down into a vague anarchy: thus has such windlestraw of truth as the ruinous blast of the Reformation left to the reformed come to be trodden and trampled into sodden slush of silly conjecture and sheer untruth.

Again, the English Sunday is, year by year, losing more and more of its character of sacredness: for the English are rapidly ceasing to go to church, and an Englishman is the last man on earth to do nothing at all—he amuses his Sunday. On Good Friday he used only to plant his potatoes; now he cycles off somewhere to pass a jocund day watching somebody else play football, or listen to the negro-minstrels on the shore, till the music-halls open, and the merry afternoon lapses into the noisy night.

On Sunday also he goes somewhere—anywhere you like so it be not to church. Nor is this a merely vulgar habit confined to the hardworked, who have such excuse for stealing an idle day as six days of bustling toil may suggest to him. His 'betters' set him the example. It is their

day to scour the country in their motor-cars : their day for distant visits ; and more and more their special day for hospitality : though for such purpose the day may begin, like a Jewish sabbath, which it resembles in naught else, about sunset of the day before. There are thousands of fashionable houses that open no hospitable doors except on Sunday, or from Saturday to Monday : and though hospitality is not servile work it involves it, and usually involves the impossibility for a servant of attending any place of worship. In England, nowadays many a Catholic servant will tell you : ' On Sunday I cannot go to Mass. It is our busy day. On Saturday company comes down : on Saturday night there is a big dinner, and late washing-up. On Sunday there is a big breakfast to send up, or twenty breakfasts to different rooms. Then luncheons to get ready ; then ever so many to tea ; then a dinner-party. There's not a chance of Mass or Benediction.' And the heads of such households may be Catholics themselves, who save their conscience by eschewing Catholic servants when they can, or choosing foreigners who, if Catholic, they assure themselves, are less fidgety about Mass every Sunday.

For there are all sorts of Liberal Catholics : not only such as are ' liberal ' in belief, but such as confine their liberality to easiness in observance of ecclesiastical laws.

A Liberal Catholic is also like a guinea-pig : for liberality consists in an open-handed readiness to part with what is *our own* ; and neither the Church's faith nor the Church's rule is his to give away : so that he is not, after all, particularly liberal, nor is he apt to remain in any true sense Catholic. Catholicity is so delicately compact together that he who light-heartedly surrenders a bit of what he thinks mere ' fringe ' presently finds that the whole garment is gone, and he is left in the mere nakedness of non-belief. Ask any priest who has laboured long in England, and he will tell you that he himself knows of whole families once Catholic, who have slipped out of the Church by nothing else than the sheer neglect of Sunday Mass.

That way out into the night calls for no deliberation : still less does it imply what are called ' intellectual diffi-

culties.' It is open to the idlest, and least thoughtful. Not that I would for a moment seem to suggest that the 'intellectual difficulties' themselves usually assail the most intelligent. Such 'difficulties' are mostly of the shallowest quality, of the flimsiest texture.

Even Catholics themselves are far too much apt to yield to such as affect them a fantastic respect to which they have no claim whatever.

'Poor father! No, he isn't a Catholic,' the devout Catholic child of a mixed marriage will tell you. 'He doesn't believe in anything. He is very clever, you see, and he doesn't believe in any religion. Perhaps you will pray for him.' And such a dull ignoramus as he is! *His* reasons for unbelief, God save the mark! Why the simplest and most unquestioning believer could suggest to him a dozen 'difficulties' more respectable than his.

Show me an 'atheist' or an 'agnostic,' and in nine hundred and ninety-nine cases out of a thousand I will show you a green goose, if you want such vulgar, greasy, unfledged, indigestible bird.

God is a judge strong and patient, and He is provoked every day: we, who are neither patient nor strong, are provoked daily by the meek concession of believers that the unbelievers are too 'deep' for what St. Thomas Aquinas not only believed but knew that reason insisted on his believing. The great majority of those who profess to be unable to believe are taken too seriously. They are encouraged to regard themselves as terrible creatures, gloomy, tragic familiars of Satan, when they are only his jack-in-the-boxes and tin whistles. Such figures of fun as they are intellectually are best reformed by the laughter their oddity suggests.

However, as we said already, Liberal Catholicism consists more commonly in 'liberal' practice than in 'liberal' theory: and it is not the less fatal on that account, for its example is the more contagious, and its result equally effectual: the chimney-sweep next door who can see for himself that you never go to Mass, and that the butcher calls punctually every Friday morning, is as likely to be



injured by your example as if he heard it mentioned that your views concerning the hypostases were grievously unsound : and perhaps those views of yours might themselves fade into a just insignificance if you would leave them alone, and betake yourself to Mass—eschewing chops on Friday. Besides the Liberal Catholicism which follows on careless practice is more fatally easy to fall into. It requires uncommon little thought to become a ‘doubter’—it requires none at all to become a defaulter in the matter of religious obligations : a man may have very hazy notions on which to ground ‘liberal’ beliefs (or hesitation to believe), but the clearest possible perception that it is more trouble to go to Mass than to stay away.

Self-indulgence is the real root of what we may call Easy Catholicism, and it leads to the final loss of faith much more commonly and much more simply than the ‘intellectual alertness and spirit of enquiry’ which are supposed to suggest ‘difficulties.’

JOHN AYSCOUGH.

## FAITH AND REASON IN RELATION TO CONVERSION TO THE CHURCH—II

THE conviction that Faith must of necessity be reasonable—this conviction which finally opened my eyes to the obligation of submitting to the Catholic Church, was originally brought home to me by the opening words of St. John's Gospel: 'In the beginning was the Word . . . and the Word was God.' Before describing the Life and Death and Resurrection of Jesus Christ, the Apostle tells us who was that Person who thus lived on earth the life of man. He says He was 'the Logos, and the Logos was God.' Now 'Logos' in Greek means the Intellect itself, as well as its attitude, which is the 'mental word,' and the spoken or written symbol, which is the uttered word. As used of our Lord by St. John, this term 'Logos,' must mean, principally, that God the Son is the Divine Intellect, or Reason. Of course we get the idea of the 'Intellect,' which as St. John says, 'in the beginning was God,' from our idea, gained by experience, of the human intellect: and we get it by analogy and the use of the negativo-positive method. But when we have got the idea of Divine Intellect, we see at once that this must be the uncreated pattern according to which God created the mind of man, and that the human intellect must be the copy, which God the Son created in the likeness of Himself. Similarly, we may get an idea of a person whom we have never seen from his photograph; but we understand clearly that the person is the original and the photograph is only the copy. But this analogy fails to some extent (as all analogies fail in part) because there is this difference between the analogous cases. The photograph is not indwelt by the person; the human soul, on the other hand, was created to be not only the likeness of God, but also the habitation of God: and the faculty of the soul, which is most indwelt by, or most influenced by the indwelling of, the Divine Intellect, must

be the human intellect, which was created in its image ; as the faculty of the soul most influenced by the Holy Ghost, who is the Will of God, must be the human will. Thus we have a closer analogy, if we compare the human intellect to a glove, and the Divine Intellect to the hand. The human intellect, if not indwelt by the Divine Intellect, is as helpless in the consideration of Divine things, as the glove without the hand is powerless in the manipulation of material things. Moreover, the perfection of a glove consists largely in its exact adaptation to the hand. Similarly, the more exactly the human Reason or Intellect conforms to the Divine Intellect or Reason, the more perfect it is, considered simply as Intellect or Reason. But the virtue of Faith is produced by the infusion into the soul by the Holy Ghost of the Divine Intellect conforming the human intellect to Itself ; and thus, by the virtue of Faith, the human Reason is not superseded, but is perfected as Reason.

Looking at the question from this point of view, we may see in the Anglican theory, here controverted, a remarkable likeness to the Apollinarian heresy. Apollinaris denied that our Lord had a human intelligence. He admitted that Christ had a soul, by which He lived and felt ; but he said that the place of the intellect and spirit was supplied by the Eternal Word. Thus, according to him, 'manhood,' in respect of its most distinctive feature, was not 'taken into God.'

The heresies of the fourth and fifth centuries found their principal sphere in the account given of the relation between the Divine Person of our Lord and His human nature : but the heresies of our own day find one of their principal opportunities in misrepresenting the relation between Divine Grace, by which, as St. Peter says (2 Peter i. 4), we are made partakers of the Divine Nature, and the natural faculties of the human soul. It has been truly and pithily said, that 'the confusion of that which is above reason with that which is unreasonable is the fallacy of our generation' ; and the theory which we are considering is an instance of it. As Apollinaris would not admit that the reasonable soul, which was an essential part of human nature, was



hypostatically united with the Eternal Word, so the modern non-Catholic will not see that the supernatural gift of Faith restores and raises to higher perfection the natural gift of Intellect or Reason, by which the nature of man is distinguished from the nature of beast. It is into the reasonable soul that the supernatural virtue of Faith is infused, not into an unreasonable animal soul, in which that which makes a man to be a rational animal is paralysed, and from which this faculty is virtually eliminated.

The truth of this conclusion will become clearer, if we consider the case of a soul that rejects Faith. The soul then acts unreasonably. The Reason or Intellect violates its own laws. In order to show this, we must consider the human intellect, and call to mind how it acts.

I. The Intellect is to the soul what sight is to the body. It is the mental power or faculty of perceiving the truth of propositions which are evident, as sight is the bodily power or faculty of perceiving the reality of material things which are luminous. The bodily eye, though endowed with sight, cannot see in the dark : it cannot see a material object unless the object gives out rays of light, i.e., unless it is luminous : for the act of sight is caused by rays of light, proceeding from the object, impinging upon the retina of the eye. Without those rays of light no act of bodily sight is possible. And this is equally the case, whether the undulatory theory or the corpuscular theory of light is true, or whether the truth lies somewhere between the two. In either case, the visibility of material objects depends upon their luminosity. The phases of the moon are caused by larger and smaller portions of that surface of the moon which is turned towards us alternately becoming luminous and ceasing to be so. The new moon is entirely invisible, because the sun is behind it in respect of us, and so none of the sun's rays fall upon the surface turned to us, and consequently no rays can be reflected towards us. For the moon has no luminosity of its own : what it has is borrowed from the sun. When the sun does not shine upon our side of the moon, the moon is to us non-luminous, and therefore invisible. An infinite multitude of material things exist

which are invisible to us, because no rays of light proceeding from them are able to impinge upon any of our eyes. Similarly, Intellect is the mental power of perceiving the truth of propositions that are evident. Intellect is not omniscience: its power is limited by the limits of evidence. Multitudes of propositions are true, but not knowable by us, because they are not evident either immediately or mediately. For instance, it was always true that water was composed of oxygen and hydrogen in the proportion of 8 to 1 by weight. But this was not knowable by any human being before the eighteenth century, because there was no evidence of it either immediate or mediate, or, in other words, because it was not evident. And the evidence of it now is Mediate and Extrinsic to all except a very few: for only those who have witnessed a number of costly experiments can truly say that they have Intrinsic evidence of the fact: and even those, with the exception of the two original discoverers, Priestley and Lavoisier, learnt the truth by human faith before they proved it by experiment. It is the same with all other scientific facts, such as the distance of the sun and stars, the pressure of the air, and the other items of common knowledge which are now certain to us all by mediate extrinsic evidence, though for thousands of years, for want of evidence, they were unknowable by anyone on earth.

Another name for evidence, or evidentness, is 'objective certainty,' which is an attribute of propositions, as distinguished from 'subjective certainty' or 'certitude,' which is an attitude of mind. In Latin there is only one word to express both the attribute of propositions and the attitude of mind, namely, 'certitudo'; and therefore it is necessary to prefix respectively the epithets 'objectiva' and 'subjectiva,' to show which is intended; but in English it is more convenient to keep 'certainty' for the attribute of propositions, which is the same as 'evidence,' and to use 'certitude' for the attitude of mind, remembering always that this is the same as 'subjective certainty.' Some people use the word 'evident' as if it meant 'immediately evident'; others use it as if it meant only 'intrinsically

evident.' Both these uses of the word are erroneous, and sometimes disastrously misleading. By far the greater number of truths, and especially the most important of them, are those which are only mediately and extrinsically evident.

Father John Rickaby, S.J., in the Stonyhurst Manual, *First Principles of Knowledge*, says :—

Evidence is that character or quality, about proposed truths or propositions, whereby they make themselves accepted by the intellect, or win assent, while the intellect is made conscious, that such assents are not mere subjective phenomena of its own, but concern facts and principles, which have a validity independent of its perception of them. In saying, then, that evidence is the ultimate criterion (of certitude), we are implying that the criterion is not, as some have vainly imagined, an all-containing proposition, from which any other truth may be evolved : further, that it is not a proposition at all, but a character of all propositions, which so come before the mind as rightly and for their own sake to demand its assent. When the nature of this character has been discovered, of course it may be declared in a proposition, or enunciated as a principle, 'Evidence is the criterion of truth.' But the criterion in itself is not a proposition or a principle : it is a quality found in all propositions or principles which we can rationally accept for their own sake, and is the reason of that acceptance (pages 221-2).

Further, Father Rickaby says (page 227) :—

We must distinguish different evidences. Evidence is sometimes immediate, and then it presents no difficulty : but sometimes it is mediate, and the steps of inference may be many and intricate. Both mediate and immediate evidence may be intrinsic to the case considered, as in the most abstruse mathematical theorem ; but sometimes, the evidence is extrinsic to the truth acquiesced in, as in the case where an ignorant man accepts a scientific conclusion, not from any insight as to how it was derived, but from the evidence he has of the trustworthiness of his informant.

In these passages Father Rickaby tells us what evidence is ; it is the character of knowable propositions. He tells us also, that it is of two kinds, immediate and mediate, and



that mediate evidence is again subdivided into intrinsic and extrinsic evidence. It is of very great importance to remember these distinctions in the consideration and estimation of evidence. They can be tabulated thus :—

EVIDENCE		
Immediate	Mediate	
	Intrinsic	Extrinsic

And it is well to notice that Extrinsic Mediate Evidence is immeasurably the most important, though not capable of existing apart from the other two.

II. The evidence, then, of a proposition is not the same thing as the proof of it ; for proof is mediate evidence, and there is another kind of evidence, which is immediate. It is a serious error to suppose that evidence and proof are identical, and that a proposition which cannot be proved cannot possibly be evident. The most evident propositions of all are those, the truth of which is knowable antecedently to proof, and which are mostly incapable of proof, namely, those which are self-evident, such as the axioms of mathematics. We call them ‘ the first principles of knowledge.’ St. Thomas Aquinas calls them ‘ principia indemonstrabilia,’ i.e., primary propositions which cannot be proved, and says that they are ‘ certissima,’ i.e., the most certain of all. If no propositions were certain or evident without proof, then the process of proof could never begin, and our minds would be paralysed by the absolute uncertainty of everything. For what is proof ? It is making an otherwise uncertain proposition certain by means of another that is more certain, or making a not quite evident proposition evident by means of one that is more evident. This can never happen to the proposition that is most evident, since there can be nothing more evident than that which is most evident ; and if there is nothing more evident, there is nothing to furnish us with the means of proving it.

We may look at the question from another side. Every proposition that is proved is a conclusion : but before there can be a conclusion there must be premisses. If these pre-

misses were proved, they were conclusions before they were premisses, or, in other words, they required previous premisses, and so on for ever. Thus reasoning could never begin, if there were no first principles, or primary self-evident propositions, the truth of which is manifest to the intellect or reason without any previous process of reasoning. This grasping of self-evident principles is immediate, or intuitive, judgment, and is the second function of the intellect, which must be exercised before reasoning can begin. The first function has been described already. It is Simple Apprehension, by which the mind apprehends intellectual ideas abstracted from sensible ideas, or brain-pictures. But apart from the second function of intuitive judgment, these intellectual ideas could no more be connected together to form reasonable knowledge, than grains of sand without lime could be connected to build a wall. Moreover, it is by intuitive judgment that we perceive the necessary connexion, or 'nexus,' between the premisses and the conclusion: so that without the exercise of this second function it would be impossible for reasoning to proceed, even if it had been possible for it to begin.

The difference between the evidence, or certainty, of self-evident propositions and that of propositions that are proved can be illustrated by the analogy of material luminosity. A body, as has already been noticed, cannot be seen unless it is luminous. But some bodies, like the sun, are self-luminous—they are visible by their own light; others, like the moon, are visible only by the borrowed light of some other body, which is self-luminous. In the same way self-evident propositions, such as, 'Things that are equal to the same are equal to one another,' can be perceived to be true at once, as soon as presented, without any evidence being brought to bear on them from other propositions. These are like the sun, while proved propositions are like the moon. Now, it would be absurd to say that the moon is more luminous than the sun. Similarly, it is unreasonable to say that proved propositions are more evident than the self-evident first principles on which the proof depends.

On this point Father Rickaby says (page 310) :—

Mediate knowledge through means of proof has no advantage over intuition, for it must rest finally on intuition ; nor is the evidence whereby we see the sequence of an argument more valid than the evidence whereby we assent to the simpler truths of immediate knowledge. To fancy otherwise is a common delusion of our adversaries.

On the absolute certainty and supreme importance of self-evident first principles, and chiefly of that most self-evident one of all, commonly called the Principle of Contradiction, Father Clarke, S.J., speaks as follows<sup>1</sup> :—

The common principle, on which direct and indirect proof alike are based, will be the ultimate principle underlying all other principles, and by means of which they can be demonstrated. It is the principle to which they must all be brought back, and on which they depend for their validity. By its supreme virtue they are established. If it should fail, all other principles, nay, all reasoning and all truth disappears from the mind. . . . First and foremost, implied in and underlying all other principles, is that which is commonly called the Principle of Contradiction. It may be enunciated thus : ‘ Nothing can at the same time exist and not exist ’ ; or, ‘ It is impossible at the same time to affirm and to deny ’ ; or ‘ Nothing can at the same time possess and be without the same reality ’ ; or ‘ Contradictories are incompatible.’ . . . On the Principle of Contradiction all proof is based, direct and indirect. It enunciates the very first Principle of Being, and therefore precedes in the order of Reason any other possible statement. It therefore underlies all thinking. It is implied in every act of thought, in every assertion we make. It is a necessity of our reason. He who refuses to acknowledge its universal supremacy, commits thereby intellectual suicide. He puts himself outside the class of rational beings. His statements have no meaning. For him truth and falsity are mere words. According to him the very opposite of what he says may be equally true. If a thing can be true and false at the same time, to what purpose is it to make any assertion respecting any single object in the universe ? Fact ceases to be fact, truth ceases to be truth, error ceases to be error. We are all right and all wrong. What is true is false, and what is false is true.

<sup>1</sup> *Manual of Logic*, p. 32.



Statement and counter-statement do not in the least exclude one another. What one man denies another man may assert with equal truth, or rather, there is no such thing as truth at all. Logic is a science, yet not a science. The laws of thought are universal, yet not universal. Virtue is to be followed, yet not to be followed. I exist, yet I do not exist. There is a God, yet there is no God. Every statement is false and not false, a lie and yet not a lie. It is evident that the outcome of all this can be nothing else than the chaos of scepticism pure and simple: a scepticism, too, which destroys itself by its own act. If the Law of Contradiction can be set aside in a single case, all religion, all philosophy, all truth, all possibility of consequent thinking disappear for ever.

St. Thomas says the same very briefly:—

*Recta ratio in speculativis maxime indiget primo principio indemonstrabili; quod est contradictoria non simul esse vera.*—Right reason in speculative things requires above all the first indemonstrable principle, which is, that contradictories are not true together.

Father Clarke's statement is more amplified, but in it there is no exaggeration. It is strictly and literally true. And it is by the immediate and intuitive judgment of our Intellect or Reason that we know it to be so. Of course, a verbal proposition may have a double meaning: but then it is really not one proposition, but two: and one of those propositions can be affirmed and the other can be denied: but, if a proposition has only one definite meaning, or if an ambiguous proposition is taken according to one definite meaning, then whoever affirms and denies it at one and the same time does really, as Father Clarke says, 'commit intellectual suicide, and put himself outside the class of reasonable beings.' And in so doing he makes himself incapable of exercising reasonable faith. For if, while professing to believe that God exists, he can say to himself that perhaps He does not exist; if, while he holds that Christ is God, he can hold at the same time that Christ is not God, what an absurdity it would be to suppose that he can really believe anything. Thus, to exempt faith from the jurisdiction of the Principle of Contradiction is to make its

existence impossible. Faith thus exempted would be not a virtue, but a vice of the intellect—not its perfection, but its ruin.

So far we have been considering the importance of primary, or immediate, evidence, as distinguished from secondary, or mediate, evidence, which is the result of proof. The latter is the kind of objective certainty belonging to propositions that have been proved.

Next, it is important to consider the difference between the two chief kinds of secondary evidence, or proof ; since, through not distinguishing these different kinds, many errors frequently arise. The main classes of proofs requiring thus to be distinguished are Intrinsic and Extrinsic proofs, as pointed out by Father Rickaby in the passage quoted above (page 369). Intrinsic proof, or intrinsic mediate evidence, consists of a series of inferences, in which the credibility of witnesses is not a link in the chain : while in Extrinsic proof the trustworthiness of the witness is that which is most essential. In the case of Intrinsic proof, which is evidence from the nature of the case, taken together with our own observations, it is impossible to form a reasonable judgment without fully understanding the proposition. But in the case of Extrinsic proof, which results from the known veracity of the witness, the proposition may be known to be certainly true because the witness testifies it, even before it is understood at all. And this is one reason, from the nature of the case, why Extrinsic proof is the only kind of proof that can reasonably be accepted in the case of truths which are beyond complete comprehension by the mind of man. We can come nearer and nearer to the comprehension of them by degrees ; but, in order to do so, we must first be assured that they are certainly true by the light of Extrinsic evidence. Extrinsic evidence is the correlative of all faith whatever, whether human or Divine : for faith is a certitude, or ‘ subjective certainty,’ resting on the declaration of a witness, or resulting from Extrinsic proof. To say that Extrinsic proof is not really proof, or that Extrinsic evidence is not genuine evidence, would be to run counter to the convictions and practice of all mankind.

In courts of law, whether criminal or civil, it is Extrinsic evidence that is meant, when the word 'evidence' by itself is used. To 'give evidence' is the same thing as to 'bear witness.' Circumstantial evidence may be to some extent Intrinsic; but even so, it must be an inference from facts, which are known by Extrinsic evidence, if it is to be allowed any weight in determining the verdict. A juror is not allowed in forming his judgment to take into consideration any facts besides those which have been testified by witnesses. Not only in courts of law, however, is it Extrinsic evidence on which most reliance has to be placed. In history, geography, physical science, and even mathematics; in our knowledge of contemporary events, in the diagnosis of disease and the choice of remedies; in the selection of persons to be employed, whether as lawyers, doctors, tradesmen, or servants, the immense majority of men must be dependent on Extrinsic evidence for the knowledge by which they are to guide their actions. Engineers and astronomers do not work out their own tables of logarithms, but trust to the testimony of those who have made, and those who sell, them.

St. Augustine in his *Confessions* (Book vi.) notices that, unless we relied on Extrinsic evidence, we should do nothing at all in this life. He says:—

Considering what innumerable things I believed which I saw not, nor was present while they were done, as so many things in secular history, so many reports of places and of cities, which I had not seen, so many of friends, so many of physicians, so many continually of other men, which unless we should believe, we should do nothing at all in this life; lastly, with how unshaken an assurance I believed of what parents I was born, which I could not know had I not believed from hearsay—considering all this, Thou didst persuade me, that not they who believed Thy books (which Thou hast established in so great authority among almost all nations), but that they who believed them not were to be blamed.

Now, surely, it would be absurd to say that this consideration was unreasonable, as they must say who contrast Faith with knowledge. Rather, this is the only reasonable



way in which knowledge can be obtained in the vast majority of cases, namely, the way of Faith. Thus it is Extrinsic, not Intrinsic, evidence which is for the most part the guide of life, even in dealing with material things. How much more must it be so in dealing with immaterial things, such as God, the soul, and all invisible realities. Hence, to be guided by Extrinsic evidence in such matters is more according to Reason, than to reject all Extrinsic evidence, and to resolve to be guided only by Intrinsic. And yet the conventional contrast between Faith and Reason seems to imply that Faith, which is in its essence reliance on Extrinsic evidence, is less reasonable—less worthy of the name of Reason—than reliance on Intrinsic evidence alone: though the latter course in most of these questions would be manifestly absurd, and consequently a violation of Reason's laws.

Only, this requires to be noticed, that, in order to have Extrinsic evidence, or Extrinsic proof, of any proposition, we must first have evidence of the trustworthiness of some witness, and this evidence can only be Intrinsic. For, until we have evidence of the trustworthiness of some witness, there is no testimony which it is possible for us reasonably to trust: since to trust in the testimony of a witness not known to be trustworthy would be manifestly contrary to the laws of Reason, and therefore contrary to the eternal law.

In this necessity for Intrinsic evidence of the trustworthiness of the witness before he can be trusted rightly, we may find the solution of a problem which sometimes seems perplexing, namely, How is it that we use our private judgment in deciding for ourselves which is the True Church, and then, having come into it, abandon our private judgment, and rely upon the definitions of the Church? This is something like asking, How is it that we use our own judgment in selecting our medical adviser, and then trust to his judgment in the diagnosis and treatment of the disease? The answer is that, until we have selected our doctor, we have nothing but our own judgment to go by: but, since our very reason for applying to a doctor is because our own judgment is insufficient of itself to be a guide in

the treatment of the disease, and only suffices for the selection of a competent guide, it would clearly be contrary to reason to send for the doctor and then not to accept his decision. The case is the same when we consult a lawyer, or an engineer, or an architect, or anyone whose expert knowledge is important to us. Similarly, until we are sure which is the True Church, we have nothing but Intrinsic evidence to go by, and the mental act of judging by Intrinsic evidence is private judgment. The Catholic, who remains in the Church, exercises his private judgment in remaining, when he might apostatise, as really, though possibly not so vigorously and self-consciously; as the convert who comes in from Protestantism or Agnosticism. Indeed, it is from the fact that the acceptance of, and adherence to, the Church is an act of personal and private judgment that the merit of Faith arises. But, as for St. Peter to have acknowledged our Lord as God, and at the same time to have disbelieved what He said about eating His Flesh, would have been logically absurd and contrary to reason; so now, for us to acknowledge a certain society as 'the Body of Christ,' and 'the pillar and ground of the Truth,' and at the same time to doubt her authoritative definitions, is a mental attitude which is impossible to a reasonable being without a violation of Reason's laws.

In the case of St. Peter just referred to, we see also an example of how it is possible to be quite certain of the truth of a proposition by Extrinsic evidence without understanding what the proposition means. For St. Peter did not understand what our Lord meant by 'eating His Flesh,' until the institution of the Blessed Sacrament; but he accepted what our Lord said, because He said it. We may find also here a commentary on the dictum of St. Anselm and others, 'Credo ut intelligam.' This does not mean that I believe without understanding *why* I believe this particular witness. That would be not faith but credulity, in the case of an educated adult. It means that I am moved to believe the message by my knowledge that the messenger is trustworthy: and that not, until I have accepted the messenger on the strength of the credentials which he offers,

can I hope to understand fully the details of the supernatural message which he brings ; since only then do I deserve the supernatural assistance which is necessary to enable me to understand. The previous judgment that the witness is trustworthy is involved in every act of faith which is made by an adult. This judgment must necessarily be formed on Intrinsic evidence. Thus, from the very nature of the case, we are obliged to use our private judgment both in coming into the Church and in remaining in it : but to use our private judgment in criticizing the definitions of the Church, whom we have already acknowledged as Divine, is a mental operation as impossible without the violation of Reason's laws, as the acceptance of the teaching of a teacher known to be Divine is reasonably inevitable.

I conclude, then, that when Faith and Reason are contrasted, the word ' Reason ' signifies, not the faculty by which men are differentiated from the animals that are without reason, but only a particular process of that faculty, namely, Reasoning ; and not reasoning generally, but only a limited and narrowly restricted kind of reasoning, namely, reasoning confined on one side to the use of Intrinsic evidence, rejecting all testimony however trustworthy, and on another side bound to refuse all supernatural aid both internal and external. The proper word to designate this maimed and fettered condition of Reason, as used in the investigation of the most important problems, is not Reason, but Rationalism, which is related to Reason as drunkenness is related to drinking. It is the abuse of a natural faculty by its employment in a manner at variance with its proper laws. It is demonstrable theoretically *a priori*, as well as practically *a posteriori* by the course of history, that no results are obtainable respecting the most vital problems of human nature and destiny by such a restricted use of Reason ; and therefore to use Reason in that way is to abuse it. Such use of it is not Reason, nor even Reasoning, taken generally, but only Reason with its eyes partly blindfolded and its arms rigidly pinioned. The act of Faith, on the contrary, is the perfect operation of Reason,



with its eyes open and its liberty unimpaired ; of Reason left free to use any aids, and draw information from any sources, which can reasonably be shown to be legitimate ; the chief of such sources being the Extrinsic evidence of witnesses previously proved by Intrinsic evidence to be trustworthy.

It is true that by that limited operation of Reason, i.e., Reason restricted to the use of Intrinsic evidence alone, we can be quite sure of the Existence of God, which is the preamble of faith : and St. Thomas sometimes uses the word 'reason' in this limited meaning, where the context shows that it is to be so understood. But the employment of the word in this way is parallel to the use of the word 'men' in the phrase 'officers and men.' When this phrase is heard, everyone understands at once that the term 'men' is elliptical, and means 'other men.' No one supposes for a moment that the two terms are mutually exclusive and that the officers are not men. On the contrary, they are men of a higher and more perfect capacity, position, and dignity. So with the expression 'officers and soldiers' ; officers are soldiers in a more complete sense than the private soldiers who are distinguished from them. In the same way, when the expression 'Faith and Reason' is employed, it ought to be understood that the term 'reason' is elliptical, and means 'the other process of reasoning,' namely, by Intrinsic evidence alone, which, as anyone can see, is a wholly unreasonable and absurd method, if used by itself, to lead us to the knowledge of those things which concern us most to know. No one ever dreams of using it alone in any of the practical affairs of common life, or in the acquisition of that knowledge by which men earn their living ; and to think of using it alone in seeking the knowledge of realities, that are far more above its reach than any material things, would indeed be the acme of folly. Thus Faith is a higher exercise of the faculty Reason than the 'reason' which is conventionally contrasted with it ; just as officers are a higher kind of soldiers than the 'soldiers' who are distinguished from them : and so Faith is 'the perfection of Reason.'

At the end of the first part of this Letter two examples were given of absolute contradictions, which are inseparable from the Anglican position, and by which the Laws of Thought are directly violated ; and these are quite sufficient, if dwelt upon and realized, to make the position manifestly untenable, except by those who hold that Faith is not a virtue of the intellect. But these are not the only standpoints from which the reasonable impossibility of the position can be viewed. Another incompatibility of thought, which violates Reason's Laws, occurs in the Anglican attitude on the subject of Infallibility. The Infallibility here spoken of is not the Infallibility of the Pope, but the Infallibility of the Church, prescinding entirely from the question raised—and decided—at the Vatican Council, whether these two are the same. Divine Faith, as the Anglican must confess, consists in believing what God has revealed on the testimony, or Extrinsic evidence, of God Himself. Now, surely, to think that the testimony of God is not infallible is virtual Atheism : and, on the other hand, to say that we ought to trust an untrustworthy, or fallible, guide is a contradiction in terms. Thus Divine Faith and Infallibility are correlatives. Without Infallibility Divine Faith is intrinsically impossible. It is self-evident that the testimony of God must be infallible. This testimony of God, as to the details of the Christian Revelation, does not come to us by a voice from heaven, like that which spoke to the Apostles in the Mount of Transfiguration, nor by a voice in the recesses of our own souls, like the voice of conscience : to think that, would be the pure Protestant heresy of Private Judgment : but it comes to us through the ministry of the Church. The Eternal Wisdom became Man, not only that He might die for us, but also that He might reveal to us God and our relation to Him in words spoken by human lips. ' The only-begotten Son, who is in the bosom of the Father, He hath declared Him ' (John i. 18). Christ is *the* Prophet as well as *the* Priest. When He ascended into heaven, He did not cease to fulfil His purpose of speaking to men with human lips ; only the lips that He used then, and since then, were those of His Apostles and

their successors. 'As the Father hath sent Me, I also send you' (John xx. 21). 'Go ye . . . and preach the Gospel. . . . He that believeth . . . shall be saved ; but he that believeth not shall be condemned' (Mark xvi. 15, 16). Nothing was said to them about writing. Moses was commanded to write, but the Apostles were told to speak. It was by the living Voice that the testimony of God was to come to men. 'Faith cometh by hearing, and hearing by the word of Christ' (Rom. x. 17). And this 'word of Christ' was the word of the Apostles. 'The word is nigh thee in thy mouth and in thy heart ; this is the word of faith, which we preach' (Rom. x. 8). And this dispensation was to continue to the end of the world. 'Behold, I am with you all days, even to the consummation of the world' (Matt. xxviii. 20). Even apart from these direct assertions of our Lord and His Apostles, is it not a contradiction to say that God revealed Himself to mankind in Christ, and then to add, that this revelation was withdrawn from mankind when Christ ascended into heaven. As Cardinal Newman writes : 'Whereas Revelation is a heavenly gift, He who gave it has virtually not given it, unless He has also secured it from perversion and corruption, in all such developments as come upon it by the necessity of its nature.' It is obvious, from the New Testament, that there is always to be an infallible Divine Voice speaking on earth by human lips. Written documents could never by themselves answer the purpose, since words change their meaning, and written words can always be wrongly interpreted, unless an infallible authority is there to say, 'They do not mean that.'

Let us now turn to the Anglican teaching on this subject. The Nineteenth Article of Religion, to which all the Anglican clergy are bound, asserts : 'As the Church of Jerusalem, Alexandria, and Antioch have erred, so also the Church of Rome hath erred . . . in matters of Faith.' Again, in the Twenty-first Article we are told : 'General Councils, . . . when they be gathered together, may err, and sometimes have erred, even in things pertaining unto God.' Thus all the greatest Churches have erred, and all General Councils may err, and therefore are not infallible. It is scarcely



necessary to observe that no Anglican ever claimed that the only infallible authority on earth is the Church of England, of which the King of England is the Supreme Head, and therefore the ultimate arbiter, in that case, of what God has commanded us to believe. So it remains that no Church and no General Council is infallible, and consequently that there is no infallible authority on earth : or, in other words, that God has commanded us to believe, as a condition of salvation, and yet made it impossible for any man on earth to know for certain what he ought to believe. Is it conceivable, that any believer in God should seriously accept that conclusion? Yet it follows necessarily from the teaching of the Church of England. If that teaching were true, the purpose for which our Lord came on earth, as the Prophet like to Moses, would have been frustrated, and the gates of hell would have prevailed against His Church. Neither is it merely in her abstract teaching that the Church of England maintains this false principle so destructive of Divine Faith. The whole action of Anglican authority within the memory of man has been based upon the absence of any obtainable certainty as to the meaning of God's revelation in its most important points. In matters of doctrine each clergyman is allowed to teach what he likes, even to the denial of the most fundamental articles of the Creed : a laxity which would be treason against the truth, except upon the assumption that there is no infallible interpreter anywhere on earth. This assumption is formulated in the Articles ; but it is acted on constantly and consistently by all the Anglican Bishops and by all the Anglican courts that claim any jurisdiction in matters of religion. The 'Anglo-Catholic,' then, is committed to this palpable contradiction, that the Church is the Body of Christ, the Pillar and Ground of the Truth, and yet that her rulers, as well as her other members, have no means of knowing for certain what is the Truth respecting the most momentous points of the faith once delivered to the saints. In other words, he must hold that the Church is an infallible interpreter of Christ's revelation, and that the Church is not an infallible interpreter, at one and the same time.

A still more extraordinary violation of the Laws of Thought occurs, when an Anglican clergyman forbids his penitents, under pain of sin, to examine the credentials of the Anglican Church. For, in so doing, he assumes an infallibility—would it not be more correct to call it ‘inspiration’?—more absolute and independent than anything that has ever been claimed even by the Pope. The Catholic Church produces her credentials, and encourages her children to examine them, knowing that by so doing they will make their faith more reasonable, and that thus they will be better able ‘to satisfy every one that asketh a reason of the hope that is in them’ (1 Peter iii. 15). When applied to on the question of Anglican Orders, Leo XIII. did not decide it summarily out of his own knowledge, but ordered it to be reasonably investigated; and, in answering it, gave his reasons at length. It is true that the Catholic Church forbids her children to dabble in sophistical arguments, which are devised with diabolical ingenuity to weaken and eradicate that subjective certitude, which every Catholic believer has, of those truths which have been defined by the Church. But on what ground does she forbid it? Plainly, on the ground that she is infallible according to her Lord’s promise. To doubt her infallibility is virtually to deny in one’s own mind either that Jesus Christ is God, or that He has promised to be with His Church, and by the gift of the Holy Spirit to guide her into all truth. It is to say in effect: ‘I do *not* believe in the Holy Catholic Church,’ and that, of course, is infidelity. Knowing that the Church is infallible, to deliberately poison one’s own mind with sophisms against truths which the Church has defined, is wilfully to run into the occasion of sin; and if one does not know that the Church is infallible, then he is not a Catholic believer, and the prohibition does not apply to him. The ground of the prohibition is the infallibility of the Church. But in the case of the Anglican clergyman above supposed, there is no question of a doctrine defined by the Church, and even if there were, he is bound, as we have seen, by the Articles and constant practice of his Church, to deny the infallibility of the Church altogether. Yet he claims for

himself an infallibility more absolute and independent than that claimed by the Pope, and represents it as a sin to doubt it. Surely this attitude involves a collection of contradictions impossible for any reasonable mind to hold together, except upon the fundamental assumption that Faith and Reason are incompatible.

The quicksand, upon which the 'Anglo-Catholic' theory rests, becomes visible again, when we consider what evidence the Anglican clergyman has that the supernatural powers of the Christian Priesthood have been entrusted to him. It is easy enough to prove that these powers have been entrusted to the Catholic Church; but, when the question arises whether the Church has entrusted them to *him*, the evidence for an affirmative answer is conspicuously absent, while the evidence for a negative answer is obtrusively present. First, do the Anglican Bishops assert that, in ordaining priests, they are able and do intend to convey to them those supernatural powers? Collectively, certainly not. One here and one there may assert it more or less tentatively to his own particular followers, but the collective voice of the episcopate is unmistakably to the effect that those supernatural powers do not exist in the Anglican communion, and that those who claim them are not really loyal to the Established Church. Suppose, then, the clergyman falls back upon historical evidence, and argues that his Bishops, in spite of their collective denial, do really convey powers in which they themselves do not believe. Does he think that he and those who agree with him are competent judges of that historical evidence? No man is a competent judge in his own case; neither is a particular Church; still less a fraction of a particular Church; and *that* a minority. The judges of particular Churches are the other particular Churches throughout the world. But the other Churches throughout the world agree that the Anglican Church does not possess these powers. Add to this, that the outcry in England against the Papists for three hundred years, supported by the Government and the King, who is Supreme Head of the Church, and sanctioned by the penalty of death, has been chiefly on account of this claim of super-



natural powers. Considering these notorious facts, can any Anglican clergyman reasonably hold that he has sufficient evidence to justify him in telling a penitent sinner that, when he—the clergyman—absolves him, his sins are loosed in heaven. Such a tremendous claim requires the clearest evidence to justify it; but here the evidence is all on the opposite side. He can only persist in his claim by saying to himself that Faith and Reason are opposites, and that, to require evidence is to fall from Faith. He forgets that Faith is the acceptance of Extrinsic Evidence, and that, in the absence of such evidence, except in the case of the Preamble of Faith, of which, of course, the evidence is chiefly Intrinsic, any assurance he may have is not Faith, but only presumptuous and heretical Private Judgment.

A fifth contradiction meets us when we consider the relation in which the Anglican Church stands to the Civil Power. The relation is one of subservience; and that subservience is most complete. It is not theoretical without being practical, nor practical without being theoretical, but it is both theoretical and practical to the fullest extent. As to theory, the King is the Supreme Head of the Church, and all Bishops-elect have to swear solemnly before their consecration that all their authority, both spiritual and temporal, is derived from him. As to practice, the Bishops are all nominated by the Prime Minister, and if the Canons of any diocese do not ratify his nomination they are liable to confiscation and imprisonment. All the regulations for public worship derive their authority from an Act of Parliament, and only an Act of Parliament can alter them. Moreover, an Act of Parliament can override the Prayer Book, as we have lately seen in such an important matter as the validity of marriage. When this occurs, all the Bishops and clergy tamely submit, as Bishop Philpotts of Exeter did in the case of the Gorham Judgment, because they know that resistance is impossible, since the very ground upon which they stand is an Act of Parliament. Now an 'Anglo-Catholic' holds that Christ founded a Kingdom that, according to the vision of Nabuchodonosor interpreted by Daniel, was to supersede all other world-wide

kingdoms ; that its King is Jesus Christ now reigning in heaven. He knows that the secular rulers both of Jews and Gentiles at first conspired to crush it, and that, as soon as the Roman emperors became nominal Christians, they tried to corrupt it by establishing the Arian heresy : that through the ages, even though calling themselves Catholics, the secular rulers have, as often as not, been the Church's foes. He knows that the end for which the Church exists is the eternal salvation of souls, while the end for which the State exists is the temporal well-being of men's bodies, which is practically made the first consideration in the settlement of all questions, whenever the State has the chief power : and yet he is content to believe that this Divine Kingdom, which our Lord set up on earth, and which He foretold would always be in conflict with the powers of the world—he is content to believe that this Kingdom is rightly subordinate in all things to a king and Parliament who need not even believe in the existence of God. Surely this is a contradiction which Faith must reject, if Faith is a virtue of the Intellect.

The contradictions in the Anglican system which have been noticed above may be summarized as follows :—

I. The Church of Christ is visibly one ; yet the Church of Christ is visibly not one.

II. ' The faith once delivered to the saints ' is one, and yet it is not one.

III. The Church of Christ is an infallible interpreter of the Christian Revelation ; and yet there is no infallible interpreter of that Revelation on earth.

IV. There is evidence that the Anglican clergy possess supernatural powers, although the evidence is all the other way.

V. The Church is a Divine Kingdom, under a Divine King, established for a Divine end ; yet it is rightly subordinate in everything to the Civil Power.

In order to accept these manifest contradictions, we must surely begin with the theory that Faith is not an intellectual Virtue, but only a ' religious sentiment.'

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Finally, in what has been said, there has been no intention of implying any wilful want of honesty in the victims of the delusion here described. It is only argued that it is a delusion, at variance with the Laws of Thought, and, as such, objectively a violation of the Eternal Law. Hence, that when anyone sees that it is a delusion, he is bound to abandon it, and at the same time to leave a position which needs this fallacy for its justification.

T. FREDERICK WILLIS.



## HIS GRACE THE ARCHBISHOP OF DUBLIN AND THE RECENT 'MOTU PROPRIO'<sup>1</sup>

WHATEVER grievance a Catholic may feel regarding the manner in which Papal decrees have been recently received in these countries he can hardly complain that they have suffered through neglect. The Protestant section of the community has exhibited a marvellous enthusiasm in bringing them to the knowledge of all concerned and in emphasizing their binding force in every case that, on the widest system of interpretation, could possibly be regarded as falling within the letter of the law. Not, of course, with a friendly interest nor from motives that Catholics can very well be expected to approve. The decrees served, or were thought to serve, a political purpose, and no effort should be spared to show the dire consequences that would, as a result of them, follow the grant of wider powers to the Catholic majority in Ireland. Hence the *Ne Temere* decree, which in normal circumstances would have had very little interest for anyone outside the Church, was made the centre of a heated agitation and became better and more widely known than any other Papal enactment of recent times. And for a similar reason the provisions of the *Quantavis diligentia*, which really had no bearing on this country at all, soon became as familiar to Protestant congregations as the most important enactments of their own synods.

Our readers will, of course, remember the controversy that arose in connexion with the latter decree some months ago, and the prominent and effective part taken by His Grace the Archbishop of Dublin in meeting the calumnies of the Protestant press and explaining the fundamental principles on which ecclesiastical laws of this kind are to

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<sup>1</sup> *The Motu Proprio 'Quantavis Diligentia' and its Critics.* By the Archbishop of Dublin. With an article contributed by Mgr. F. X. Heiner, Auditor of the Roman Rota, to the *Kölnische Volkszeitung*, and an Appendix. Dublin: Browne & Nolan, Ltd.; M. H. Gill & Son, Ltd. Price 6d.

be interpreted. The intense interest taken in the controversy has not, we feel sure, in any way diminished in the meantime, and will ensure a very cordial welcome for the little volume of 110 pages to which we are glad to do our part in directing public attention. It is written in the clear, convincing style that characterizes all His Grace's pronouncements, and contains not merely a full explanation of the principles involved but an interesting and, in parts, entertaining *résumé* of the main items of the controversy. An article by Mgr. Heiner, and an Appendix containing among other things the reply of the same high authority to the criticisms his treatment of the subject called forth in the Protestant press of Germany, serve to throw further light on the canonical aspect of the case, and to bring out in a very convincing manner the correctness of the view to which His Grace was the first in these countries to give public expression.

The *Privilegium fori*, with one aspect of which, as everyone knows, the decree itself is concerned, has little more than an historical interest for us. It is based ultimately, of course, on the reverence due to persons and things consecrated to God's service, and, so far as Scripture is concerned, on the words of our Lord Himself<sup>1</sup> and on the principle enunciated by St. Paul, and applied by him to all Christians, that the disciples of Christ should appoint even the least among themselves as judge in such disputes as should arise between them rather than have recourse to an outside tribunal.<sup>2</sup> The Fathers of the Church spoke in the same spirit, and the history of the development of the privilege, both in civil and criminal matters, is not without its interest.

As regards civil litigation even in the time of the Roman Empire the Councils decreed that a cleric should sue another only in the Bishop's court.<sup>3</sup> The civil law, of course, refused for a long time to recognize any such arrangement: it was only in fact in the Justinian Code that actions of the

<sup>1</sup> Matt. xviii. 15-17.

<sup>2</sup> 1 Cor. vi. 1-8.

<sup>3</sup> Cf. Syn. Carth. iii. c. 9; Chalcedon, c. 9, etc.

clergy against one another or of laymen against the clergy were subjected by the civil law to the Bishop's jurisdiction.<sup>1</sup> After the fall of the Roman Empire things remained in practically the same position, except that laymen might cite clerics before the lay courts if they secured the Bishop's permission.<sup>2</sup> The Carlovingian laws effected no essential change. Clerics were forbidden to take a personal part in litigation in lay courts,<sup>3</sup> and even in connexion with the few matters that had been reserved to the civil tribunals by earlier laws,<sup>4</sup> the Bishops now began to act as assessors with the judges of the land.<sup>5</sup> In criminal matters the privilege was more curtailed. During the period of the Roman Empire the Bishop pronounced sentence only in a few rather unimportant cases : in the great majority of instances he simply deposed the guilty cleric and handed him over to the civil authorities for punishment.<sup>6</sup> In the succeeding century or two the Bishops themselves were sentenced by the synods, but the lower clergy still continued amenable to the jurisdiction of the civil courts. From the date of the edict of Clothair, however (A.D. 614), the custom began to be gradually introduced of putting all clerics on the same footing and having criminal cases in which they were concerned decided by the synods.<sup>7</sup>

By this time many changes had come about. The power of the political rulers was weakening and the influence of the Bishops in temporal matters becoming more and more solidly established. A number of matters previously regarded as secular began to fall within the province of the ecclesiastical authorities, and the privilege of personal immunity for the clergy came to be widely recognized. The consequences were unavoidable. The customs that had grown for centuries became crystallized in the pages

<sup>1</sup> Nov. 79, 83, 123, cc. 8, 21, etc.

<sup>2</sup> Cf. Macon, c. 8 ; Orleans, c. 35, etc.

<sup>3</sup> *Adm. Gen.* c. 23.

<sup>4</sup> Questions, 'de possessione' and 'de libertate.' V. Sägmüller, *Lehrb. des kath. Kirchenrechts*, pp. 218 ff., in accordance with which most of the facts here mentioned are stated.

<sup>5</sup> Cf. Frankfort, c. 30, etc.

<sup>6</sup> *Codex Theod. de Episc.* xvi. 2 ; Nov. 123, c. 21.

<sup>7</sup> Cf. Dove, *De jurisd. ecc. progressu* ; Löning, *Geschichte der deut. Kir.* i. 289, ii. 507 ; Hinschius, *Kirch.* iv. 794, 849 ff ; v. 402 ; vi. 294, etc.



of the decretals,<sup>1</sup> and the ecclesiastical legislation was confirmed and upheld by the civil law.<sup>2</sup> The ecclesiastical courts came to have exclusive jurisdiction in all criminal cases of clerics, in civil actions of the clergy against each other or of laymen against clerics, and generally even in civil actions of the clergy against the laity. But what had grown up with time began in time to be modified. The growing absolutism of the modern State and the uprising against the Church at the Reformation began to undermine the existing system, and the ecclesiastical authorities found it wiser to modify or abolish the privilege in some places, and in others to conform to the newer state of things introduced at first against their wishes. The results are seen at the present day. The *Privilegium fori* has become in nearly all countries a mere shadow of its former self. Even where it holds most strongly it merely amounts to this, that no one, lay or cleric, is to bring a cleric before a civil court without first securing the permission of the Bishop. But the Bishop is bound to grant such permission, especially when he has tried in vain to effect a settlement by his own efforts.<sup>3</sup> Such a course would, it need hardly be said, be suggested, apart from all law, by the instinct of every practical Catholic: a prominent Protestant writer is, indeed, strongly of opinion that the principle 'might very well be extended to all Christian men, whether lay or clerical.'<sup>4</sup>

However just and reasonable, though, the law may be in itself, the important consideration for us is whether, in so far as it affects laymen who cite priests before the civil courts, it still holds in this country, and whether the recent *Motu Proprio*, which affixes a penalty to the violation of the law<sup>5</sup> has, therefore, any reference to Ireland at all. And to both these questions His Grace, after a very able presentation of the whole case, has no difficulty in giving a

<sup>1</sup> Cc. 4, 8, 10, 17, *De jud.*; cc. 1, 2, 9, 12, 13, *De for. comp.*; &c.

<sup>2</sup> Auth. Frid. II. 'Statuimus'; c. *De Episc.* i. 3.

<sup>3</sup> Decree of the Holy Office, 23rd January 1886.

<sup>4</sup> W. T. Stead in the *Review of Reviews*, January, 1912.

<sup>5</sup> The decree manifestly presupposes that the proceeding to which it attaches the censure is already forbidden; 'We are called upon to keep within the lines of duty, by the infliction of a severe penalty, those who are not deterred by the sinfulness of their sacrilegious deeds'—(His Grace's translation, op. cit., p. 75).

negative reply. Though his own view 'has always been clear on the [first] point in question,' he prefers to base his case on the testimony of Cardinal Cullen given as long ago as 1873 in the famous O'Keefie case. And, with a view to the present controversy, we think there is much to be said in favour of his decision. The Cardinal was no minimizer of Papal prerogatives: his views on the *Privilegium fori*, and on the Constitution *Apostolicae Sedis* which dealt with a special aspect of it, are not likely to be vitiated, therefore, with undue liberality. He spoke nearly forty years before the present controversy arose, and at a time when the matter could be discussed dispassionately: no one can, therefore, accuse him of suiting his views to the political or religious needs of the moment.

Cardinal Cullen [His Grace states<sup>1</sup>], in the course of his evidence already referred to, spoke of three ways in which an ecclesiastical law should be taken not to apply to a particular country. The first is when a country is expressly excluded from the operation of the law by the terms of the law itself. The second is when a country is excluded from the operation of the law by an agreement or Concordat between the Holy See and the head of the State. The third is when, in any country, a duly constituted custom has prevailed against the law in question.

And, after explaining the various conditions required for a 'duly constituted custom' and dealing with other matters arising out of his controversy with Mr. Campbell and others, he comes to establish in detail the minor of his syllogism, viz., that Ireland is exempted from the operation of the general law in the third way mentioned. Here, again, he relies on the answers given by the Cardinal on cross-examination, which, in view of their great importance, we may quote:—

MR. PURCELL, Q.C.—Does that rule (i.e., the rule affecting clerics) apply equally to lay members who sue ecclesiastics; as to clerics?

HIS EMINENCE.—At present it does not . . . in the middle ages it applied equally to laymen and clerics.

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<sup>1</sup> Op. cit. page 15.

MR. PURCELL.—As a matter of fact, does a Roman Catholic layman incur any, and what, censure ; is he guilty of any, and what, offence against the common law, or against the systematised law, of the Church, if he sues a cleric in a court of law ?

HIS EMINENCE.—In nearly every country now there are concordats with the Holy See which expressly declare that . . . rights of property and matters of that kind may be decided in a civil court. In these cases a layman has nothing at all to answer for. In countries where there is no concordat, such as this country . . . the Holy See has declared that breaches of ecclesiastical immunity are to be overlooked.

MR. PURCELL.—But still breaches of the law ?

HIS EMINENCE.—It is a breach of the law as it was ; not a breach of the law as it is now brought down by custom.<sup>1</sup>

And if, in the opinion of such an eminent authority as Cardinal Cullen, there was, in the year 1873, a duly-established custom in this country against the *Privilegium fori*, there surely cannot be any doubt about the matter now, when nearly another forty years—sufficient of themselves to establish a custom even according to the most rigorous view—have passed, and the state of things described by the Cardinal has remained all the time unchanged.

In regard to most of the conditions required for such a custom as Canon Law contemplates, that it be established, for example, with the legal consent of the legislator, that it be of sufficient duration, etc., there cannot in the present instance be any trouble whatever in view of the overwhelming evidence adduced by His Grace. The main difficulty is to show that such a custom can be 'reasonable.' The *Privilegium fori* rests on divine law. How, it may be asked—and some canonists have asked it, under the impression that no answer can be given—can a custom be 'reasonable' if it aims at abolishing a right guaranteed by the divine law itself ?

To which, of course, the answer is that the principle of the *Privilegium fori*, especially in so far as it involves the immunity of the Sovereign Pontiff himself from the jurisdiction of civil tribunals, is based on the divine law, but

<sup>1</sup> Pages 39, 40.



that the special exemptions that it entails in practice in the case of less highly placed ecclesiastics are defined by positive law and may be more or less restricted in accordance with the needs and circumstances of particular times and places. To determine whether a custom which so restricts these exemptions is reasonable or not, we must apply the principle given by His Grace, viz., that 'a custom is considered reasonable if the law to which it runs counter is one that could justly be repealed by law,'<sup>1</sup> or, as Craisson puts it, that 'a custom is to be considered reasonable when the subject-matter of the custom is such as could be the subject-matter of a just law.'<sup>2</sup> Now, can the restrictions of the *Privilegium fori*, in the sense explained, be made 'the subject-matter of a just law'? Can the Pope explicitly permit such restrictions? Unquestionably. As Professor Santi (quoted on page 72 of His Grace's work) states:—

Ob urgentes circumstantias, ob specialem conditionem locorum et temporum potest Romanus Pontifex vel tolerare vel etiam permittere ut causae clericorum a laicis personis, quibusdam in locis et certis sub conditionibus, cognoscantur et definiantur.<sup>3</sup>

And Father Wernz, now General of the Jesuits and one of the leading authorities on Canon Law, draws, on similar principles, the very conclusion arrived at by His Grace:—

Consuetudo, cum vi juris divini abrogandi prorsus destituatur, *forum privilegiatum Romani Pontificis* nullo unquam tempore auferre valet; at *immunitas inferiorum clericorum*, quo ambitu, *expressa Romani Pontificis concessione*, in multis regionibus immutata vel quoad substantiam abrogata est, eodem etiam, *longaeva consuetudine*, in aliis regionibus immutari vel tolli potest.

Quod enim, temporum ratione habita, Romanus Pontifex non paucis regionibus concessit, profecto *nequit esse praxis irrationabilis*, licet sit minus perfecta et favorabilis Ecclesiae; at etiam in aliis regionibus eadem possunt vigere circumstantiae, ergo rationabilitas, sive prima legitimae consuetudinis conditio, non deest.

Qua conditione posita, multo facilius habetur altera, quod consuetudo debeat esse legitime praescripta.<sup>4</sup>

<sup>1</sup> Page 20.

<sup>3</sup> *Praelect.* l. 2, p. 26.

<sup>2</sup> N. 119.

<sup>4</sup> *Prael.* de Jud. Civ. p. 260.

The Pope *can* do it. He *has* done it in agreements and concordats too numerous to mention. What the Pope has done in matters of this kind cannot surely be regarded by any Catholic canonist as opposed to the divine law. What he has made 'the subject-matter of a just law' cannot be regarded as 'unreasonable,' and a custom that tends to introduce the same condition of things as is provided for by such a just law may, therefore, be reasonable also. As Mgr. Heiner puts it :—

If some canonists hold that a custom against the *Privilegium fori* must be unreasonable, what they refer to is a custom subversive of the very principle of the *Privilegium*, and thus involving the destruction even of the immunity of the Pope himself from the secular jurisdiction. But this in no way precludes the establishment of a reasonable custom, in reference to other ecclesiastics, in a particular country, in view of the circumstances of the place.<sup>1</sup>

And again :—

Against the *Privilegium fori* of the Pope himself, inasmuch as it is of divine right, no right of custom can prevail. But it is different in the case of other ecclesiastics. Since, in consequence of the altered circumstances of the times, the Pope has in particular countries expressly abrogated the *Privilegium fori*, so too a custom may be formed which has the force of law, and cannot be called unreasonable, if only it has been in existence for the prescribed period of time. If such were not the case, the Concordats entered into by the Holy See should be called 'unreasonable' and a 'corruption of law.'<sup>2</sup>

The custom, we say, may be reasonable. But not necessarily so in each and every case. For when, in certain countries, as in Italy, the ecclesiastical authorities have again and again protested against the introduction of an opposing custom, and where, in consequence, there can be no question of the legislator's 'legal' assent having been secured, it may easily happen that the custom, so far from being 'reasonable,' would be regarded rather as a 'corruption of the law.' This is brought clearly before us by a decision given by the Roman Rota as late as March 15,

<sup>1</sup> Appendix to His Grace's book, p. 93.

<sup>2</sup> Ibid. p. 94.

1910. A layman, a Signor Antonio Boni, brought an action against a priest, a Canon Baglioni, for some money due to him, before the ecclesiastical court of the Roman Vicariate. The priest objected to having the case tried there, and asked to have it transferred to the civil courts, on the ground that the layman, in case the decision was against him, might have recourse to the civil courts, whereas he himself had no such course open to him. The ecclesiastical court at first granted the application, and the layman appealed to the Rota. Before the case could be decided there, however, both parties agreed to refer the matter again to the Vicariate. This time the application was rejected, and now the priest appealed to the Rota. He based his application on the principle that 'the circumstances in which the Church is now placed in Italy and in almost all countries are such that it has been made impossible for her tribunals to exercise their jurisdiction.' The decision of the Rota was that the *Privilegium fori* was to be maintained, and that, moreover, a contrary custom could not be introduced: for such a custom would have to be reprobated as a 'corruption of the law, inasmuch as [it would be] opposed to ecclesiastical liberty': 'neque contrariam consuetudinem posse introduci: ea enim reprobanda esset velut corruptela juris, utpote adversa libertati ecclesiasticae.'<sup>1</sup> To show, however, that this decision does not interfere in any way with the general principle given above, we can have no stronger evidence than the words of Mgr. Heiner, himself a judge of the very tribunal that gave the decision. It leaves the present question untouched, because:—

First in what he [Herr Müller] has brought forward there is question only of the grounds of a decision, and these can neither create nor define any right. Again, as to the decision itself: decisions define the rights of those only in respect of whom the decisions are given and are binding upon them alone, whilst for third persons who are not specially referred to in the decision of the individual case, although they may happen to be in the same or in similar conditions, nothing is decided either to their

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<sup>1</sup> Ibid. pp. 89 ff.



advantage or to their disadvantage. That is a fundamental principle of law : ' *res inter alios acta nobis neque prodesse neque nocere potest.*' The decision referred to, then, can by no means be put forward as a proof that in the matter of the *Privilegium fori* a canonical right cannot be established by custom.<sup>1</sup>

The priest in question had asserted a much wider principle than could possibly be maintained : he had stated that

the *Privilegium fori* had no longer any value *de jure* because in present circumstances the application of it had been rendered impossible *de facto*. To this the answer was given : That is not so : no one but the Pope could abrogate the *Privilegium fori*. The present case refers to Rome and Italy only, where, on account of the absence of the Papal consent, there can be no question of a validly established custom to the contrary. The Holy See has repeatedly protested,—as was frequently done, for instance, by Pius IX.—when, in disregard of the *Privilegium fori*, ecclesiastics were summoned before the secular courts. Then as, on the one hand, the Church can never surrender the principle of the *Privilegium*, because such a surrender would involve that of the immunity of the Pope, which is based on divine right, so neither, on the other hand, can an accomplished fact ever turn wrong into right as was argued on behalf of the priest whose case was dealt with by the Rota. And as the Holy See has protested over and over again against violations of the *Privilegium fori* in Rome and in Italy,—so that there can be no question of the 'tacit' consent of the Pope,—the sentence of the Rota might well declare the custom set up in opposition to it to be a 'corruptela juris.' I would myself have subscribed without hesitation to such a judgment.<sup>2</sup>

But may not a custom, no matter how long established, be abolished by a law to the contrary ? And may it not be said, considering the words of the *Motu Proprio* itself, that we are face to face with an entirely new law, not with a mere interpretation of the Constitution *Apostolicæ Sedis* of 1869 ?<sup>3</sup> Even for this contingency His Grace has fully provided. In the sixth section of his book he deals with

<sup>1</sup> Ibid. p. 90.

<sup>2</sup> Ibid. pp. 94, 95.

<sup>3</sup> For a good English translation of the document see His Grace's book, pages 74, 75.

'The *Motu Proprio* considered as an independent enactment,' and reaches the same conclusion as before. A general law will not abolish a particular custom to the contrary, unless there is an abrogating clause sufficiently strongly worded, according to the technicalities of legal phraseology, to displace such a custom. The only trace of anything in the *Motu Proprio* approaching such a clause is found in the words 'contrariis quibusvis non obstantibus,' and these are insufficient to abolish such a long established custom as His Grace has already shown to exist in Ireland. To most people this presentation of the case will be sufficient in itself: to those who require more concrete proofs the replies given by Rome in regard to Germany and Belgium, which are in exactly the same position as Ireland, will be sufficient to carry complete conviction. His Grace quotes them later on. In the *Osservatore Romano* of 16th December last we find the following statement:—

In reference to this telegram (which gave a misleading account of what had happened) we are authorised to state that, after the publication of the *Motu Proprio Quantavis diligentia*, Herr von Mühlberg, the Minister accredited by Prussia to the Holy See, asked, as he was instructed to do by his Government, what view was taken by the Holy See of the article of Mgr. Heiner.

The Cardinal Secretary of State declared that the principles of Canon Law developed in the well-known article of Mgr. Heiner regarding the *Motu Proprio Quantavis diligentia*, and the abrogation of the *Privilegium fori* by contrary custom, are in conformity with the canonical doctrines of the Church.

Consequently the aforesaid *Motu Proprio* does not affect Germany.<sup>1</sup>

And a subsequent edition of the same organ stated more than a month afterwards, in connexion with a telegram from Brussels:—

We do not know what words may have been used by the Minister in explaining more fully the laconic reply that has come to us by telegraph.

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<sup>1</sup> Op. cit. pp. 58, 59.

For our part, we can state that the Canon Law itself establishes that a legitimate custom can derogate from the general law.

Now his Eminence the Cardinal Archbishop of Mechlin has declared that, as a matter of fact, such a custom exists in Belgium.

Hence it is evident that the principle already applied to Germany is applicable to Belgium also.<sup>1</sup>

The parallel between both these countries and Ireland is complete. In both there was a long-established custom : so is there in Ireland. Notwithstanding the clause of the *Motu Proprio* already referred to, and the opinion of some canonists against the possibility of a custom opposed to the *Privilegium fori* being considered 'reasonable,' custom alone was enough to exempt both Germany and Belgium from the operation of the general law. So it must also be in Ireland.

We need not follow up the details of the controversy between His Grace and the amateur canonists whose crude notions of ecclesiastical law he felt himself called upon to correct. The main points are given in the book just published, and no one who reads them can fail to be struck with the extraordinary legal acumen displayed by His Grace, or can have the slightest doubt on which side victory lies. And among the many achievements for faith and fatherland with which His Grace's name will stand associated in history, not the least, we are sure, will be his magnificent defence of Catholic principles at a time when the enemies of Ireland tried to turn into a weapon of destruction the religion it has always been her greatest privilege and glory to profess.

M. J. O'DONNELL.

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<sup>1</sup> Ibid. pp. 60, 61.



# Notes and Queries

## THEOLOGY

### 'IF HOLY CHURCH WILL IT PERMIT'

REV. DEAR SIR,—Will you kindly explain the meaning and efficacy of the phrase 'If Holy Church will it permit' in the marriage ceremony? There has been so much recently said about this subject a few words about it in the pages of the I. E. RECORD will not be amiss.

C. C.

The marriage rites as given in our Ritual and in the Roman Ritual<sup>1</sup> are somewhat different, for in addition to the essential part of the formula contained in the reply to the question proposed by the officiant and given in both Rituals, the Ritual used in this country inserts a ceremony which gives fuller expression to the significance of the matrimonial rite. When the essential question has been answered in the affirmative by both contracting parties they are man and wife; the subsequent ceremony in our Ritual merely confirms the consent already given and indicates the primary effect of that consent, viz., the matrimonial state, in which the parties have mutual conjugal rights and obligations until death.<sup>2</sup> No mention is made in the ceremony of the actual use of those rights;

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<sup>1</sup> In our Ritual, the ceremony is as follows:—

'N. Wilt thou take N., here present, for thy lawful wife (husband), according to the rite of our Holy Mother Church?'

'R. I will.'

'I, N., take thee, N., to my wedded wife (husband), to have and to hold, from this day forward, for better, for worse, for richer, for poorer, in sickness and in health, till death do us part, if Holy Church will it permit; and thereto I plight thee my troth.'

In the Roman Ritual there is nothing to correspond with this second paragraph; there are only the question and reply:—

'N. vis accipere N. hic praesentem in tuam legitimam uxorem (in tuum legitimum maritum) juxta ritum Sanctae Matris Ecclesiae?'

'R. Volo.'

<sup>2</sup> Cf. Wernz, *Jus Decretalium*, iv., n. 190, note 275.

this use does not enter into the essence of the matrimonial state, nor need it be in all cases obligatory.

Accordingly, when the parties say : 'I, N., take thee, N., to my wedded wife (husband), to have and to hold, from this day forward, for better, for worse, for richer, for poorer, in sickness and in health, till death do us part, if holy Church will it permit ; and thereto I plight thee my troth,' they go through a ceremony the object of which is to confirm the consent already given and to indicate the primary result of that consent. They assert that, if Holy Church will it permit, the matrimonial state, in which they will have mutual conjugal rights and obligations, will remain till death. Now, Holy Church will permit this state to arise and continue, unless there is some diriment impediment at the time when consent is given, or unless, subsequently, the marriage tie is dissolved, as happens at times in the case of a *matrimonium ratum non consummatum*. Hence the phrase 'if Holy Church will it permit' means 'unless there is a diriment impediment at the moment when the marriage is contracted or a subsequent dissolution of the matrimonial bond is obtained.'

Coming after the giving of consent in an absolute form, this clause cannot interfere with the validity of the marriage ; and even if it were contained in the part of the ceremony in which the matrimonial consent is given, it would be a mere formality. Whether or not the parties express such a condition, it is present in virtue of the sacramental contract. Even though they do not say that the matrimonial state will not exist if a diriment impediment be present, or will not continue to exist if a dissolution be granted, *de facto* no matrimonial state will exist or continue to exist if a diriment impediment be present or a dissolution be granted. In the same way the sacrament of baptism is valid, other requisites being present, if true and natural water is used, and is invalid if true and natural water is not employed, whether or not the minister gives expression to a condition concerning the use of valid matter. In both cases the insertion of the condition is a mere formality which does not affect the validity of the rite.

It is scarcely necessary to add that what we have said refers to the marriage contract in the eyes of the Church, and the same holds in regard to some other points to which our respected correspondent does not refer, but which are worthy of mention. What is the force of the phrase of the Ritual, 'according to the rite of our Holy Mother Church'? Is it a strict condition affecting the validity of the marriage contract, or is it merely a modal contract, which of itself does not interfere in any way with the absolute nature of the matrimonial consent? To these questions only one reply is possible. The phrase 'according to the rite of our Holy Mother Church' is not a strict condition; it is merely a superadded agreement which indicates the way in which the marriage ceremony is to be performed, but which does not, of itself, suspend the matrimonial contract. There are in reality two contracts or agreements, of which one is the contract of marriage and the other an agreement that the marriage ceremony be carried out according to the Ritual of the Catholic Church. Even if this second agreement is not fulfilled the first contract is valid, if no diriment impediment intervenes. The Ritual mentions that the marriage is to be celebrated in the presence of the Parish Priest and two witnesses, but it is neither the Ritual nor the agreement that the Ritual be followed which makes a clandestine marriage *invalid*; the same Ritual and the same agreement were present in England at a time when clandestinity was not there a diriment impediment. It is the decree *Ne Temere*, and formerly the decree *Tametsi* of Trent, that makes a clandestine marriage invalid in the eyes of the Church. It follows that the contracting parties give an absolute matrimonial consent when they say 'I will' to the question, 'N. Wilt thou take N. here present, for thy lawful wife (husband), according to the rite of our Holy Mother Church?' No matrimonial diriment impediment being present, the marriage is contracted at that moment; no subsequent part of the ceremony is essential.

This brings us to another point of some interest. What is the significance of the prayer: 'Ego conjungo vos in



matrimonium, in nomine Patris, et Filii, et Spiritus Sancti. Amen' ? It clearly does not imply that the assisting priest is the minister of the sacrament of marriage, as some theologians formerly held. Very likely the prayer was inserted in the Ritual under the influence of that view, but nowadays no Catholic theologian holds that the priest is the minister; the contracting parties themselves are the ministers of the sacrament. This follows as an immediate conclusion from the official teaching of the Church that in marriage the contract and the sacrament are one and the same thing. If the contract is the sacrament, the contracting parties are of necessity the ministers of the sacrament. In saying the prayer 'Ego conjungo vos,' etc., the priest does not, then, intend actually to tie the matrimonial knot; he means merely to give the solemn sanction and blessing of the Church to the union which has already taken place. In favour of this meaning of the phrase it will be sufficient for our purpose to quote Father Wernz, *Jus Decretalium*, iv., n. 190, note 277 :—

Quae verba [ego conjungo vos] non sunt *forma* sacramenti matrimonii multoque minus enuntiant *sacerdotem* esse *causam efficientem* vinculi matrimonialis, sed continent caeremoniam quandam *accidentalem* ex praecepto ecclesiae saltem sub levi servandam, qua parochus assistens 1) ut *testis autorizabilis* et *minister ecclesiasticus* matrimonium *mutuo consensu sponsorum jam contractum nomine Ecclesiae* publice et solemniter approbat ratumque esse *declarat*, et 2) *sacerdos* per adjunctam *benedictionem* sacerdotalem et invocationem divini numinis gratias coelestes conjugibus apprecatur.

Hinc dubium existere nequit, quin alia Ritualia dioecesana doctrinam catholicam mentemque Ecclesiae de matrimonio clarius expriment quam ipsum Rituale Romanum, v.g., in dioecesi Monasteriensi: '*et ego matrimonium per vos contractum confirmo et ratifico in nomine Patris et Filii et Spir. Sancti*'; et in dioecesi Augustana (Vindilec.): '*Matrimonium inter vos contractum confirmet et ego illud approbo et in facie Ecclesiae solemnizo in nomine sanctae et individuae Trinitatis Patris et Filii et Spiritus Sancti. Amen.*'

## NON-FASTING COMMUNION

REV. DEAR SIR,—An old parishioner of mine has been a confirmed invalid for some years, but, though occasionally so ill as to be a fit subject for the last Sacraments, is not generally confined to bed. He is able to sit in the kitchen during the day without inconvenience. Can I give him Holy Communion once or twice a month even though he is not fasting, in virtue of the privilege granted to invalids by the decrees of December, 1906, and March, 1907? My difficulty arises from a doubt as to whether he can properly be described as ‘decumbens’ in the sense of these decrees.

TIR-ENDA.

By a decree of the Sacred Congregation of the Council, December 7, 1906, the sick who have been laid up for at least a month (‘qui jam a mense decumberent’), who have no hope of a speedy recovery, and who are unable to observe the natural fast from midnight, may take something, ‘per modum potus,’ before receiving Holy Communion, once or twice a week if they live in pious houses where the Blessed Eucharist is reserved or the privilege of having Mass said in a private oratory exists, and once or twice a month if they live elsewhere. On the publication of this decree a diversity of opinion arose as to the meaning of the phrase, ‘qui jam a mense decumberent.’ While some interpreted it to refer to those who were confined to bed for a month, others thought it included all who were seriously ill whether they were confined to bed or could remain up during the day-time. To solve this difficulty the S. Congregation of the Council decided on March 6, 1907, that those are included in the privilege ‘who, while seriously ill and having medical testimony to their inability to fast, cannot remain in bed or are able to be up during some hours of the day.’

If, then, the patient to whom ‘Tir-Enda’ refers is up during the day-time because he is unable to remain in bed, or remains up only during some hours of the day, there is no difficulty in giving him Holy Communion once or twice a month even though he is not fasting. If, however, he does not get up through inability to remain in bed, and if he

remains up during the whole day, the case becomes more difficult. The meaning of the decision of March, 1907, seems to us to be that the privilege extends only to those who cannot remain in bed and to those who can remain up only during some hours of the day. Still, there are some authorities who extend the privilege beyond the mere words of the S. Congregation and allow non-fasting Holy Communion sometimes to be given to those who are seriously ill, even though they can remain up during the whole day. Thus Father Besson<sup>1</sup> holds that the privilege can continue to be enjoyed by those who were confined to bed by serious illness, and who are now convalescent and able to remain up in the bedroom or in the house during the whole day. He would also allow the privilege to those who are in a state of health that compels them to remain indoors except for a brief period, even though they are not compelled to remain in bed. He would not allow the privilege to those who *habitually* can be out of doors, but, with Fathers Vermeersch and Bastien, would permit it in the case of those convalescents who are allowed out with precaution during the sunny hours of the day and who are not yet able to go to the church in the morning. In his second volume of *Cases of Conscience*, Father Slater<sup>2</sup> grants the privilege to a person who is suffering from phthisis, who has been ordered by the doctor to take milk every two hours, and who is not confined to bed. In face of these authorities we would not urge what seems to us to be the meaning of the decision, until an official interpretation appears. We would not, accordingly, condemn 'Tir-Enda' if he were to give non-fasting Communion to the confirmed invalid of whom he speaks.

#### CONDITIONAL ADMINISTRATION OF SACRAMENTS

REV. DEAR SIR,—Father Dunne's excellent paper in your February issue gives birth to many thoughts. I myself have often imagined that we make over much of this question of

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<sup>1</sup> *Nouvelle Revue Theologique*, August, 1907, p. 433.

<sup>2</sup> *Cases of Conscience*, ii. pp. 117, 118.



*conditio*. In a sense is not every sacrament administered conditionally? We do not intend to give them to anyone who is not *capax* or fit. Take:—

(1) Baptism. A child is brought to be baptized. The priest asks if it was privately baptized. The answer is 'No'; but it really was by the midwife. He proceeds to baptize it *sine conditione*. No sin is committed; not by the priest, for he did not know, nor by the midwife, who forgot or did not advert.

(2) Confirmation. Sometimes—nay, very often—an old adult turns up and protests he was never confirmed. Perhaps so, but in many cases, I fancy, it was merely a *lapsus memoriae*.

(3) Penance. You give absolution after many protestations of sorrow, including the *signa extraordinaria* of St. Alphonsus (which I do not set too high a value on, and which subsequent events often prove to have been quite illusory), but what do you know of your penitent's heart? Absolutely nothing.

(4) Extreme Unction. A priest is called suddenly and hurriedly, perhaps at night, and presumably the patient is in imminent danger. But when he arrives *he* does not think there was any justification at all for the fuss and hurry. There is no doctor present to consult, so he pooh-poohs the whole thing, tells them it is all nervousness, gives the patient a blessing, and goes his way. The first news that greets him next morning is that the patient is dead! He vows he will never so act again. In a few days an exactly similar case arises. Again, he thinks, there is no occasion for anointing, but 'the burnt child dreads the fire.' He says to himself: 'I am no doctor, *Sacramenta propter homines*,' and he anoints *sine conditione*. Next day he meets his patient in town! These are not imaginary cases, they have both occurred to myself.

Again, I say, I think we over-magnify this *conditio* question. What harm was done in the foregoing cases by baptizing, confirming, absolving, and anointing *absolutely*, even though *facts* prove that none of these sacraments should have been conferred? God was not outraged or offended, because there was no intention of offending Him. It was all done *humano modo*, which is ever imperfect and faulty. Would matters have been any better if the ministers had inserted a *conditio* over and above the general one, which I contend, is always present?—Yours faithfully,

NESCIENS.

Conditional administration of the sacraments is evidently

a subject of interest to the readers of the I. E. RECORD, and it may be useful, by way of reply to the foregoing letter, briefly to review the theology of the subject. Conditions can concern past, present, or future events. If they are *de praeterito* or *de praesenti*, the sacrament is valid or invalid at the moment when it is conferred, according as the condition *hic et nunc* is fulfilled or not. If they are *de futuro* the sacrament is suspended till the future event occurs, on the fulfilment of which its validity depends. In all the sacraments it is possible to have conditions *de praeterito* or *de praesenti*, but in the sacrament of matrimony alone is it possible to have a condition *de futuro*. The other sacraments cannot be conferred on such a condition, because there is no intention of conferring the sacrament at present, and the requisite matter and form will be absent in the future when the condition will be fulfilled, so that neither at present nor in the future can a valid sacrament be conferred. On account of its peculiar contractual nature the sacrament of matrimony admits conditions *de futuro*; it follows the rules of contracts in general in which such conditions are possible.

Because of the reverence due to sacred things it is unlawful to insert conditions in the conferring of the sacraments, unless for a proportionately grave reason. Rarely can it happen that there is such a grave reason for inserting a condition which is extrinsic to the sacrament itself; but there can easily be such a reason in the case of a condition which is intrinsic to the valid conferring of the sacrament. Such a condition in Baptism as 'I baptize you *if your parents belong to my parish*' would, consequently, be unlawful, but such a condition as 'I baptize you *if you are capable of receiving the sacrament*' is, at times, not only lawful but also obligatory. It must be noted, however, that the insertion of these intrinsic conditions does not affect the validity of the sacrament: they are inserted merely for the sake of reverence.<sup>1</sup> Thus, so far as the validity of Baptism goes, it matters not whether the minister inserts

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<sup>1</sup> Lehmkuhl, *Theol. Moral.* ii. n. 37, 3.

the condition *si capax es*; the sacrament is invalid if the subject is incapable of receiving it, and the sacrament is valid if, other requisites being present, the subject is so capable. From this it will be seen how seriously 'S. L.' erred when, in his letter published in the March number of the I. E. RECORD,<sup>1</sup> he said :—

Suppose Extreme Unction is thus conditionally administered to a patient whose 'infirmity' happens in reality not to be 'periculosa,' but, through some undiscovered negligence or imprudence on his part or on the part of attendants, develops, and has the following week become truly 'periculosa,' the priest is not aware there is any need of anointing again. The disease proves fatal—the patient dies without Extreme Unction *since the first anointing was invalid on account of the conditional administration.*

If, in the case, the first anointing is invalid it is not because the priest inserted the condition *si capax es*—about which alone there is question—but because the patient is incapable of receiving the sacrament.

Speaking of these intrinsic conditions, theologians<sup>2</sup> lay down that the sacraments are to be conferred conditionally, not absolutely, whenever there is reasonable doubt as to whether something which is required for validity is present; and that the sacraments ought so to be conferred if the absolute denial of the sacrament would expose the person to the danger of grave loss or the privation of a great good. This rarely happens in the case of the sacraments which can be repeated, but it often happens in the case of the sacraments, like Baptism and Extreme Unction, which cannot be received a second time at all or during the same illness. Hence, Extreme Unction ought to be conferred conditionally if there is doubt whether or not the patient is in probable danger of death and if the priest cannot afterwards be present when the doubt can seasonably be solved. The condition in this case should be *si capax es*,

<sup>1</sup> I. E. RECORD, March, p. 318.

<sup>2</sup> Lehmkuhl, *Theologia Moralit*, ii. n. 38.



so as to allow the patient the benefit of every controversy which concerns the precise degree of illness which is required for the validity of the sacrament.

Only in the two cases mentioned in the Ritual (Tit. ii. c. 1; tit. v. c. 1) need the condition be expressed in words;<sup>1</sup> these are the cases of Baptism and Extreme Unction. In other cases it is sufficient mentally to form the condition. It is even probable that an implicit condition suffices, such as every priest has who intends to confer the sacraments according to the institution of Christ and the intention of the Church. Of course, it is better explicitly to form the condition, but this is probably not a matter of obligation, and, as we have already mentioned, the insertion of the condition does not at all affect the validity of the sacrament.

We agree, then, with our correspondent, that priests need not be very anxious about the conditional administration of the sacraments. In reference to the various points raised by him we shall merely repeat that if in any of the cases the priest or Bishop had reasonable doubt about the validity of the sacrament, it would have been his duty to confer the sacrament conditionally, but, as we have seen, there are only two cases in which the condition need be verbally formed, and in other cases the condition is implicitly present inasmuch as priests intend to confer the sacraments in accordance with the wishes of Christ and His Church.

J. M. HARTY.

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<sup>1</sup> Genicot, *Theologia Moralis*, ii. n. 113, note.

## CANON LAW

FURTHER POINTS IN CONNEXION WITH THE RECENT  
ARMAGH STATUTE REGARDING FUNERAL OFFERINGS

REV. DEAR SIR,—‘Enquirer’ is much obliged for inserting his letter and for your comments on it, particularly as they put him in a position of giving his opinion, without seeming impertinent, on some points you have raised. It is to be clearly understood that no knowledge of the working of either new or old statute is claimed, except in so far as his own diocese is concerned, where his experience covered a lengthened chaplaincy. You state that ‘It is clear that in the generality of cases the new regulation gives much better results than the old, and comes much nearer to satisfying the legitimate claims of all concerned.’ ‘Enquirer’ would beg to test this statement. Let the normal case be assumed: that is, that the custom of offerings prevails in his parish and the other parishes around, and that the institutions served by chaplains are within the Armagh Province. In almost all cases of death in these institutions the remains are taken home, and it seems that the number of such deaths is increasing. Under the old act nothing went to these institutions except in the rare case of a funeral beginning there, but under the new a fourth part of offerings in spheres of influence will ever and always go there though they receive an annual salary. This distribution of results will be very serious. Again you state that the fourth part is ‘a fair recognition for devoted service.’ But this part, as well as the annual *collata* of public institutions, go by Statute 24, page 22, into the *aerarium commune*, showing an extension of the results beyond the chaplain. Apart from public institutions, the results will be in favour of parishes having fairs and markets and railways, etc., and against parishes devoid of these and other such like civilizing agencies. Even the parish that has no public-house will be at a disadvantage. It seems the whole drift of results will be in one direction.

In reference to the clause ‘qui porro,’ etc., ‘Enquirer’ had before him the sheer improbability of making death outside a title against the home clergy. It is difficult to imagine a state of things making birth outside, with baptism at the home font, a similar title. Of course, it is true that troubles arose in case of death outside, but it is now recognized that the old statute did not work equitably. ‘Enquirer,’ one of ‘the clerics in the street,’ did not see his way, as most of his brethren did, to take

it for granted that the new statute aimed at alleged drift in distribution of results, and he thought that 'qui porro' helped him. As he fears he did not make himself understood, he begs to re-state:—

1. As regards the case of death and funeral outside.—The obligation imposed in 'qui porro' is an obligation to say the funeral Mass. In this case the remains continue in the ecclesiastical charge of the outside clergy who are bound to say the Mass, and who alone seem to be in a position to say it *on the day of the funeral and where the remains are present*. There are exceptions, of course, but, speaking broadly, these circumstances of time and place have always been characteristics of the funeral Mass. You state that 'there may be an obligation imposed by law, or if the priest has received a honorarium.' But the onus in question is that coming from offerings, and no other seems in court.

2. Take the case of death outside and funeral in the home parish. The onus, as you state, still rests with the extern clergy, that is, they must say, or get said, a funeral Mass. But the funeral Mass must be said on the day of the funeral and where the remains are present. 'Decide between us which of us should have the succession and make the sacrifices at the tomb,' is too old for any serious change ever to occur in either one or the other of these marks of the funeral Mass. Hence the outside clergy must go or get others to go into another parish on the day of the funeral and celebrate Mass where the remains are present. One would think that legislative powers should be stretched to the point of breaking against the home clergy to accomplish this.

'Enquirer' ventures to express a view frequently heard from his brethren under the old act, now grown to a conviction with them and him under the new, that the whole question might be left to the ordinary law. But there seems little difference of opinion as to new title.

ENQUIRER.

On the general merits of the new statute of Armagh we do not know that the difference of view between our correspondent and ourselves is so very great after all. According to the old law the extern clergy got three-fourths or nothing. If they got three-fourths, they got more than the ordinary man would say they were, in ordinary



circumstances, entitled to on the basis of equity. If they got nothing, it could hardly be said that the claims of equity were satisfied either, because, after all, it was they who attended the deceased, if he was attended at all, and there should, in fairness, be some recognition of their services. Apart from the abuses to which the old statute was liable, there were, therefore, good grounds why the late Synod should change the law. Both extremes should be avoided, and rival claims adjusted by the payment of a moderate amount in all cases : and when it came to fixing the amount, the ' quarta pars,' known to Canon Law for over a thousand years, was the natural one to select. That the new statute will occasionally inflict a grievance on a parish without public institutions, fairs, or markets, railways, public-houses, and other real or so-called ' civilizing agencies,' we have no doubt whatever. But the parish in question can hardly be classified as quite normal, and every general law gives strange results in exceptional cases. All these possibilities were foreseen by the Fathers who made the law : their realization is, therefore, no argument against its application. Our correspondent agrees with us that ' the old statute did not work equitably.' We are quite prepared to agree with him that the new statute will not always satisfy legitimate claims in abnormal cases. And we never said it would. It is by its results in normal cases that the merits of a general law are to be estimated, and, judged by this test, the new law is, in our opinion, much better than the old. In our previous reply we stated, as our correspondent correctly quotes, that '*in the generality of cases the new regulation gives much better results than the old, and comes much nearer to satisfying the legitimate claims of all concerned.*'<sup>1</sup> And of that we are still convinced.

If ' Enquirer ' had given us statistics regarding the number of his parishioners who have died outside his parish during his time, and a supplementary list of outsiders who have died in his parish, we should be in a position to say which statute would work out more justly in his individual

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<sup>1</sup> I. E. RECORD, March, 1912, p. 308.

case. But, for the reasons already given, our interpretation of the general law would still remain unaffected. Nor would such evidence be, of itself, sufficient to secure a change in the statute at some future date : for laws are concerned not so much with individual cases as with the general well-being of the whole community.

His interpretation of the clause '*qui porro curret ut pro anima defuncti Missa celebretur*' is based on the assumption that the Mass mentioned is the funeral Mass. For that view of the case we see no evidence. A priest may say, or get said, a Mass for a deceased person, or be obliged to do one or the other, without being in any way concerned in the funeral arrangements ; and if he is not so concerned there is no danger of 'legislative powers being stretched to the point of breaking against the home clergy.' And when '*Enquirer*' still implies that the place of the funeral rites, not the place of death, is the basis of the title to the '*quarta pars*,' we can only remind him once more that the Synod makes the distribution quite independent of the place where the rites are celebrated : '*ubicumque celebretur funus*.' There is nothing to be gained by appealing to the old statute. A comparison of the old and new—the preamble being the same and the enacting portion different—will convince anyone that the old regulation has been abolished and an entirely new one substituted.

He raises a very debatable point when he suggests that 'the whole question might be left to the ordinary law.' It is not the first time we have heard the proposal made, but we are not sure that all who make it imply the same thing. Do they mean that the general law should govern the distribution of the offerings, while the other details of the funeral arrangements would be guided by local custom ? Or do they suggest that the general law should apply to everything connected with the funeral service ? In the first hypothesis the results would, in our opinion, be much less satisfactory than at present : in the second they would be intolerable.

According to the general law, the place of death is of

practically no importance, in so far as the distribution is concerned: the place where the funeral rites are carried out is the deciding factor. When the rites take place in a different parish from that in which the deceased lived, the 'quarta pars' goes to the clergy of the domicile, and the remainder to the extern clergy. The 'quarta pars'—also called the 'pars canonica' and other names<sup>1</sup>—does not always mean exactly 'the fourth part': it is sometimes taken to mean 'one-third,' sometimes 'one-half,'<sup>2</sup> and we have records of cases—very exceptional ones, though—in which it meant 'three-fourths.'<sup>3</sup> Making all due allowances, however, for these variations according to local customs, it cannot be denied that, according to the spirit of the general law, the greater part of the offering goes, in the circumstances mentioned, to the extern clergy, the smaller portion being given to the parish priest of the domicile, or divided among several parish priests if the deceased had a domicile in the parish of each.<sup>4</sup>

Now, all that is very fair and reasonable in Continental countries. But the state of things that exists there, and that the general law contemplates, is very different from what we have in Ireland. The offerings in those places are comparatively small, including sums left by the deceased for funeral purposes, stole fees, honoraria for Masses, offerings of candles, occasionally very moderate offerings of other kinds made by the faithful: in fact, they are no more than what one might reasonably expect to find offered on the

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<sup>1</sup> 'Portio canonica' (c. *De his.*, 4, *De Sepult.*; c. *Cum quis*, 2, *Cum quis in vi.*°); 'quarta portio' (c. *Cum super.* 8.; and c. *Dudum*, 2, *Clem.*); 'justitia' (c. *Certificari*, 9), etc.

<sup>2</sup> Cf. Clement III. (chap. *Certificari*, 9, *De Sepult.*): 'Unaquaque provincia in suo sensu abundet: secundum rationabilem consuetudinem regionis, illa justitia circa medietatem, vel tertiam aut quartam partem pro locorum diversitatibus attendatur.'

<sup>3</sup> Cf., e.g., the decision given in *Sutrina* by the Congregation of Rites on December 7, 1844, according to which the parish priest of the domicile was to hand over one-fourth to the clergy of the place where the burial took place. By the express desire of the deceased the rites were celebrated in his parish church though the burial took place in another parish—a proceeding which common law does not sanction.

<sup>4</sup> C. *Cum quis*, 2, *De Sepult.* in vi.; S. Congr. Conc. in Ariminen. November 28, 1851.



occasion of any important religious ceremony.<sup>1</sup> It is very natural, therefore, that some of these should go exclusively, and the remainder principally, to the clergy who are actually responsible for the funeral service. But in Ireland things are very different. The offerings are not a mere honorarium offered on the occasion of a special ceremony: they are a tribute of respect shown to the whole life of the deceased, and a recognition of all the services his own clergy have done him during his lifetime. They are intended for the maintenance of the clergy, and form, where they exist, a very substantial portion of the parochial revenues. To transfer the greater part of them to outsiders, who never did anything for the deceased except carry out his funeral services, would, therefore, in our opinion, be against the wishes of the faithful and out of harmony with the principles of justice. The point may be illustrated by a resolution of the Irish Bishops some years ago on a similar matter. The funeral offerings in some parts of Ireland correspond largely to the marriage offerings in others. According to the *Ne Temere* decree the marriage offering generally goes to the priest who officiates at the ceremony. But the Bishops felt that on account of the special character of those offerings in parts of Ireland the general law would work very unfairly, and accordingly resolved at their meeting in Maynooth College, on October 14, 1908, 'that, while a reasonable marriage fee is payable to the *Parochus loci* under the decree *Ne Temere*, the Bishops agree that the special marriage offering for the maintenance of the clergy, if such offering is made, shall be paid, as hitherto, to the *Parochus Sponsae*.' And if, notwithstanding the general law, the mere fact of officiating at a marriage ceremony should give no title to the special marriage offering, neither, we think, should the fact of officiating at the funeral ceremony give a claim to the greater part of the special funeral

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<sup>1</sup> Cf. c. *In nostra*, 10, *De Sepult.*: 'Parochialis ecclesia de oblationibus, lectis, et aliis quae defunctus pro anima sua in ultima dispositione reliquit . . . recipiat quantum partem.' C. *De his*, 20, *De testamentis*: 'De his quae in ornamentis, vel pro eis, seu fabrica, luminaribus, anniversario, septimo, vigesimo, trigesimo die sive aliis, ad perpetuum cultum divinum legantur ecclesiis . . . canonica portio deduci non debet.'

offering, though such claim be guaranteed by the same general law. If the Irish Bishops found the common law unsatisfactory in the one case, so, we think, would they find it in the other.

All that holds true if the general law is to be applied merely to the distribution, leaving all other details to be governed by existing Irish customs.

If it be applied all round, the anomalies would be still greater. For it must be remembered that, according to the general law, the clergy of the place where the deceased is to be buried are to carry out the rites and are guaranteed the canonical rights arising from that source.<sup>1</sup> Now it often happens that people desire to be buried in a neighbouring parish, especially when their family burial-ground is situated there. The result, according to the common law, would be that, in each and every case of the kind, the home clergy would be forced to part with the greater portion of the offerings. These are some of the consequences 'Enquirer' would have to face if his suggestions were put into practice; and we are inclined to think that, taking it all in all, he will come to the conclusion that the common law is, after all, the last resource. Of course, if it were once defined that 'quarta pars' should in all cases mean 'three-fourths' or more, the common law would work pretty well. But that would be such a violent interpretation of the term as to leave us in serious doubt whether we had got the common law at all.

We are thankful to our correspondent for the kindly tone in which he has conducted the discussion, and are very sorry that our views do not happen to coincide. He will excuse us for not entering on a detailed discussion of the minor issues he has raised. His parallel between birth and death is ingenious enough; and really, if the baptismal offerings were as important as those paid over the dead, and were given with the same intention, we see no reason why the rule he refers to might not fairly be adopted.

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<sup>1</sup> For a full discussion of this matter see, e.g., S. Many, *Praelectiones de Locis Sacris*, pp. 303 ff., p. 322 ff.

The chaplain's salary is paid into the common fund, but that little act of Christian socialism need not affect the general question very much. And, while his principle 'Decide between us, etc.,' throws a welcome glamour of poetry round a funereal subject, we fear it must be looked at in the cold light of the prosaic command: 'Pertineat quarta pars ad clerum loci ubi contigerit mors . . . ubicumque celebretur funus.'

#### APPLICATIONS TO THE ROMAN CONGREGATIONS FOR DISPENSATIONS IN IRREGULARITIES

REV. DEAR SIR,—To which of the Roman Congregations must an application be made for dispensation from irregularities? Does it make any difference whether the irregularity arises before or after ordination?

RELIGIOSUS.

If the irregularity affects a lay person or an ecclesiastic not yet promoted to the priesthood, the general rule, according to the provisions of the *Sapienti Consilio*, is that the application is to be made to the Congregation of the Sacraments.

As regards priests there was room for doubt from the beginning. On the one hand, it might seem that irregularities in their case should come under the general rule also: on the other, it was said that the Congregation of the Council was the proper one to apply to, seeing that its competence extended to all questions affecting discipline.

As a matter of fact the Consistorial favoured the latter view in a decision given on February 27, 1909. But doubts still remained, inasmuch as irregularities *ex defectu* seemed to have a much closer connexion with the sacraments than they had with discipline. And when the question was put a second time, on November 28 of last year, the answer given by the same Consistorial was that irregularities *ex defectu* were a matter for the Congregation of the Sacraments, those *ex delicto* remaining as before subject to the



jurisdiction of the Congregation of the Council. We may quote the reply :—

Proposito dubio 'utrum vi decisionis hujus S. Cong. Consistorialis diei 27 februarii 1909, facultas concedendi presbyteris dispensationem ab irregularitate, sive haec oriatur ex delicto, sive ex defectu, spectet ad S. Cong. de Sacramentis, an potius ad S. Cong. Concilii'; SS<sup>m</sup>us D. N. Pius PP. X., attentis votis tum a Secretis utriusque Congregationis de Sacramentis et Concilii, tum hujus S. Cong. Consultorum, mandavit ut respondeatur: 'dispensationem ex defectu reservari ad S. Cong. de Sacramentis, ex delicto autem ad S. Cong. Concilii.'<sup>1</sup>

The decision, however, had probably no bearing on the question submitted by 'Religiosus.' As far as we can judge from the letter accompanying the query, he is concerned with irregularities that may be incurred by members of Religious Orders. If so he must apply to the Congregation for Religious' Affairs, in accordance with the regulations of the *Sapienti Consilio*. The reply quoted above affects only secular priests.

#### NEED OF EPISCOPAL PERMISSION IN CASE OF COLLECTIONS

REV. DEAR SIR,—Are members of Religious Orders who are sent out to make collections bound in all cases to get the permission of the diocesan authorities? A reply in the I. E. RECORD will oblige,

VICARIUS.

'Vicarius' will probably find all the information he needs in a reply given to a similar question in the I. E. RECORD for January, 1908. If he is anxious for a fuller discussion of the decree *Singulari quidem* he might consult the May issue for 1910.<sup>2</sup>

M. J. O'DONNELL.

<sup>1</sup> A. A. *Sedis*, iii. p. 658.

<sup>2</sup> Pp. 528 seq.

## LITURGY

THE USE 'AD LIBITUM' OF THE NEW PSALTERY—ANSWER  
OF THE CONGREGATION OF RITES

Two points of general interest in connexion with the new Rubrics have now been definitely settled. It has been decided that the Calendar to be followed in the celebration of Mass is that of the church in which the Mass is celebrated. We have not seen the exact form in which the question was proposed, but we take this answer to mean that if in any church the new Calendar has been introduced it must be followed by extern priests celebrating there, though they themselves still follow the old *Ordo*. The second answer will be of greater interest, for it removes all doubts regarding the lawfulness of using the new Psaltery whenever it is found more convenient to do so. These answers were given on February 24, in reply to queries sent to the Congregation of Rites by the Bishop of Salford, and were published in the *Tablet* of March 2. With regard to the recitation of the Office it is stated :

'Licere cuivis Officium Divinum persolvere aliis diebus ex novo Psalterio, aliis vero ex antiquo ad libitum, perdurante anno 1912.'

NUMBER AND QUALITY OF CANDLES AT MASS AND  
BENEDICTION

REV. DEAR SIR,—I should feel obliged for a statement of the law as to the number and quality of the candles to be used at Mass and Benediction, as I have been somewhat puzzled by the following statements by Father Thurston in the *Catholic Encyclopædia*. The italics are mine:—

(1) 'The use of incense and wax candles, *which even in the poorest churches must not be less than ten in number* . . . (is) obligatory everywhere' (art. 'Benediction').

(2) 'In the case of the Paschal candle and the two candles which are of obligation at Mass, a recent decree of the Congregation of Rites (December 14, 1904) has decided that they must be of beeswax "in maxima parte," which commentators have interpreted as meaning *not less than 75 per cent.* For other purposes the candles placed upon the altar, e.g., at

Benediction, ought to be made of wax "in great part," or at any rate "in some considerable part." Of such candles a *minimum of twelve is prescribed for any public exposition of the Blessed Sacrament, though six will suffice in a poor church or for a private Exposition* (art. 'Candles').

I remain, yours truly,

PUZZLED.

The legislation of the Church in this matter has been explained more than once already in former issues of the I. E. RECORD ; but, as a mere reference to such issues might prove useless to our correspondent, we have no hesitation in complying with his request.

#### I.—AT MASS

The number of candles to be lighted varies according to the dignity of the celebrant, the solemnity of the Mass, and the nature of the occasion on which it is celebrated.

1°. When a Bishop celebrates a Solemn Pontifical Mass in his own diocese seven candles must be used, according to the prescriptions of the *Caeremoniale Episcoporum*,<sup>1</sup> the seventh being placed behind the crucifix. This additional candle, however, is not to be used in the case of a Solemn Requiem Mass celebrated by the Bishop.<sup>2</sup> It must not be used, moreover, when the Solemn Pontifical Mass is sung by an extern Bishop, an auxiliary, or a coadjutor.<sup>3</sup>

2°. For a Solemn Mass sung by anyone except the Ordinary six candles are usually lighted. This number is prescribed by the *Caeremoniale*<sup>4</sup> for Sundays and festivals. But it allows<sup>5</sup> four as sufficient on minor doubles, semi-doubles and days within octaves, while two will suffice on simple feasts and feriae. The *Caeremoniale* does not, however, prohibit the use of six candles on these days, and the general practice is to light that number for a High Mass, no matter what the rite or quality of the day. This custom seems to

<sup>1</sup> Lib. i. cap. xii. 12.

<sup>2</sup> Ibid. lib. ii. cap. xi. 1.

<sup>3</sup> *Decreta Authentica*, n. 2274, ad 6.

<sup>4</sup> Lib. i. cap. xi. 11.

<sup>5</sup> Ibid. n. 24.



find a certain sanction in the rubric of the Missal, which directs that at the incensation of the altar three swings of the thurible are to be given on each side, 'prout distribuntur candelabra,' although it is true, according to the next rubric, that three swings must be given whether the candlesticks on each side of the altar are more or fewer than three.

3°. When a *Missa Cantata* is sung four candles must be used. The Congregation of Rites answered<sup>1</sup> that even in *Missis de Requiem Cantatis* at least four must be lighted. But in this case also six may be used.

4°. For a private Mass celebrated by any Bishop four candles ought to be lighted, at least on the more solemn feasts, though two will suffice on other occasions.<sup>2</sup> In this case also custom has sanctioned the use of four—whatever the character of the feast—to mark the episcopal dignity.

5°. Two candles, and two only, must be used when a priest, no matter what his dignity or title may be, celebrates a Mass which is strictly private. The general rubric of the Missal (tit. xx.) says: 'Candelabra saltem duo cum candelis accensis.' It would not, however, be correct to infer from the word 'saltem' that more than two candles may be lighted for a strictly private Mass, for there are several decrees of the Congregation of Rites which declare that this number must not be exceeded on account of the personal dignity of the celebrant. In this particular, all priests are equal. But if the Mass is not strictly private, e.g., a Parochial Mass or a Community Mass on more solemn days, more than two may be lighted.<sup>3</sup> There is no law limiting the number of candles on such occasions, but it would seem incongruous to light more than six—the number prescribed for a Solemn Mass. An additional candle may also be used at the Missal in any Mass to enable the priest to read more conveniently.

6°. A rubric<sup>4</sup> also directs that a candle at the Epistle

<sup>1</sup> *Decreta*, 3029, ad 7.

<sup>2</sup> *Caeremoniale*, lib. i. cap. xxix. 4.

<sup>3</sup> *Decreta S. C. R.*, 3057, ad 9.

<sup>4</sup> Tit. viii. n. 6, *Ritus celebrandi*.

side of the altar should be lighted at the Elevation and not extinguished until after the Communion of the priest or the faithful. In most places a custom, sanctioned by the Congregation of Rites (June 9, 1899), has prevailed against this rubric. Notwithstanding this express sanction a Bishop may insist on the observance of the rubric by both seculars and regulars in his diocese.<sup>1</sup>

With regard to the *quality* of the candles at Mass, the general Rubrics of the Missal prescribe beeswax, and the *Cæremoniale* directs that they ought to be of bleached wax on ordinary occasions, though candles of unbleached wax are used in Requiem Masses and on Good Friday. The increasing difficulty of procuring wax candles free from adulteration induced many Bishops to ask the Congregation of Rites whether a certain amount of adulteration might not be allowed. In some places also the question of price was a practical difficulty. In reply the present legislation was issued in the year 1904. Two candles, at least, of those used at Mass must be of beeswax, 'saltem in maxima parte'; and the other candles used *on the altar* must also contain that substance 'in majori vel notabili quantitate.' The determination of the percentage of beeswax whether for the two candles or for the others is expressly left to the Bishop of the diocese: 'Qua in re parochi aliique rectores ecclesiae tuto stare poterunt normis a respectivis Ordinariis positus.' And ordinary priests are advised not to trouble themselves about the quality of the candles they find on the altar: 'Nec privati sacerdotes Missam celebraturi de qualitate candelarum anxie inquirere tenentur.' Writers on liturgy naturally found themselves called upon to express an opinion as to what would constitute a 'maxima pars' and a 'notabilis pars' in the sense of this decree, and many of them<sup>2</sup> have fixed on seventy-five per cent. or thereabouts for the former, and for the latter somewhere about fifty per cent. But, as has been said, the determination of the percentage in either case has been left, not to the liturgical writers, but to the Bishops; and the Irish Bishops at their

<sup>1</sup> Decree, July 29, 1904.

<sup>2</sup> Cf. Van der Stappen, tom. iii. q. 59.

meeting in October, 1905, authoritatively<sup>1</sup> decided that 'the two principal candles on the altar at Mass should contain at least sixty-five per cent. of beeswax, and all other candles used on the altar should contain at least twenty-five per cent. of beeswax.' For us in Ireland, therefore, there is no room for doubt. These *minima* are of obligation and will be sufficient.

## II.—AT BENEDICTION

The Congregation of Rites has not definitely prescribed the number of candles to be used in the case of an ordinary Benediction Service such as we have in this country. The decrees which have been issued regarding Exposition of the Blessed Sacrament do not deal with the matter directly, and can but serve as a guide to what should be done. Twenty wax candles are prescribed by the *Instructio Clementina* for the Forty Hours' Adoration. A minimum of six has been ordered by the Congregation of Bishops and Regulars, when private Exposition is had, and the same number is fixed upon by the Congregation of Rites as a minimum in a form of Exposition known in some places abroad as 'ad instar Proscenii.' These are the only general decrees we can find dealing with the subject of Exposition of the Blessed Sacrament. While still Archbishop of Bologna, Benedict XIV. prescribed a minimum of twelve for an ordinary Exposition in his own diocese, and Innocent XI. would be content with ten. Writers on liturgy generally maintain that the latter number at least should be used; many of them maintain that twelve ought to be the minimum unless for exceptional reasons; while a few, we believe, have placed the number as low as six. But, as far as we can see, apart from synodal legislation or custom, the determination of the number must be left to the circumstances of the church and the feeling of reverence towards the Blessed Sacrament when publicly exposed for the adoration of the faithful. It is this feeling which has influenced rubricists generally in urging the use of ten or twelve as a minimum; and there are few churches,

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<sup>1</sup> *Vide* Appendix to the Maynooth Decrees, p. 401.



indeed, which cannot afford such a number of candles for the occasions on which Benediction is given.

According to the legislation of 1904 the candles need not be of pure wax, nor even of beeswax 'in maxima parte,' for this material is necessary only when there is question of the Paschal candle and the two candles at Mass. The candles must, however, contain beeswax 'in majori vel notabile parte,' i.e., in Ireland, at least to the extent of twenty-five per cent.

'TEMPUS PRAEDICANDI'

REV. DEAR SIR,—Which is the *more correct* time for preaching *intra Missam*—between the Gospel and the Creed, or at the Post-communion?

ORATOR.

According to the *Ritus celebrandi Missam*<sup>1</sup> to be found at the beginning of the Missal, and a decree<sup>2</sup> of the S.C.R., the sermon should be preached, during a *Solemn* Mass, between the Gospel and the Credo; and, by analogy, this would seem to be the more correct time for the sermon, even in a Low Mass. There has been no decision on this point, however, and custom has sanctioned the postponement of the sermon until after the Communion of the priest or people.

THOMAS O'DOHERTY.

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<sup>1</sup> Tit. vi. n. 6.

<sup>2</sup> N. 9, ad. 8.

## CORRESPONDENCE

LEGAL REQUIREMENTS FOR 'MIXED MARRIAGES'  
IN IRELANDJOHN'S BRIDGE, KILKENNY,  
*March 5, 1912.*

REV. DEAR SIR,—Attention having been called to the law relating to marriages in Ireland by a law-case of widespread interest, which is still pending, it seems desirable that all the clergy should fully and clearly understand the particular requirements imposed by law as regards one particular class of marriages, viz., marriages celebrated either by a Protestant Episcopalian clergyman or by a Roman Catholic clergyman, in which one party is, and the other is not, of the same faith as the celebrating clergyman, i.e., Protestant Episcopalian or Roman Catholic, as the case may be. (I follow the statute in mentioning 'Protestant Episcopalian' before 'Roman Catholic'.)

Section 38 of the Matrimonial Causes and Law of Marriage (Ireland) Amendment Act, 1870, gives definite legal power to clergymen of the two Churches mentioned to celebrate marriages between one party who is and another who is not of the clergyman's own religion, provided the following conditions are complied with:—

'1st. That such notice be given to the registrar and such certificate issued as at the time of the passing of this Act is required by the Act passed in the session of the seventh and eighth years [1844] of the reign of Her present Majesty, chapter eighty-one, as amended by the Act passed in the session of the twenty-sixth year [1863] of the said reign, chapter twenty-seven :

'2d. That the certificate of the registrar is delivered to the clergyman solemnizing such marriage at the time of the solemnization of the marriage :

'3d. That such marriage is solemnized in a building set apart for the celebration of divine service according to the rites and ceremonies of the clergyman solemnizing such marriage, and situate in the district of the registrar by whom the certificate is issued :

'4th. With open doors :

'5th. That such marriage is solemnized between the hours

of eight in the forenoon and two in the afternoon, in the presence of two or more credible witnesses.'

The next section (sec. 39) repeals the eighteenth century Irish statute making void marriages celebrated by a 'Popish priest' between two parties, one of whom is, or within the previous twelve months has been, a Protestant, and goes on to say:—

'Any marriage celebrated by a Roman Catholic clergyman between a person who is a Roman Catholic and a person who is not a Roman Catholic shall be void to all intents in cases where the parties to such marriage knowingly and wilfully intermarried without due notice to the registrar, or without certificate of notice duly issued, or without the presence of two or more credible witnesses, or in a building not set apart for the celebration of divine service according to the rites and ceremonies of the clergyman solemnizing such marriage.'

(It will be noticed that while 'open doors' and between 8 a.m. and 2 p.m. are made essential conditions by section 38, they are not mentioned in section 39 as conditions the 'knowing and wilful' breach of which by the parties is to make the marriage 'void to all intents.' Nevertheless, it seems highly desirable to observe these two conditions also.)

By sections 25 and 27 of a statute of the following year, the Matrimonial Causes and Law of Marriage (Ireland) Amendment Act, 1871, every Roman Catholic Bishop is authorized to nominate a person to issue licences for marriages. Where a marriage is intended to be solemnized between a Roman Catholic and a person who is not a Roman Catholic, the licence must be applied for seven days before it is issued, and the person appointed as aforesaid to issue same must forthwith send by post a copy of the notice of application to the clergymen officiating at the usual places of worship of both parties, and when these steps have been taken, the marriage may be lawfully celebrated, and the certificate from the registrar, as set out above, is not to be necessary for the legal solemnization of such a marriage, but the requirements of two witnesses, celebration in a building set apart for (Roman Catholic) divine worship, and (subject as stated above) the 'open doors' and '8 a.m. to 2 p.m.' still remain.

As a pure matter of verbiage, it may be mentioned that this amending statute of 1871 says only that when the licence has been issued in manner aforesaid the marriage may be lawfully solemnized and the certificate from the registrar is not to be



required, without expressly mentioning that notice to the registrar is not to be necessary, but having regard to the fact that the certificate referred to is a certificate of the contents and delivery of the notice, and reading this part of the section in the light of the introductory words making the licence an authority for the lawful celebration of the marriage, I am of opinion that no notice to the registrar is required in the case of a mixed marriage by licence issued by the person appointed by the Bishop. I do not know what the actual practice is, but *ex abundante cautela* it would perhaps be desirable to serve the registrar with notice, even in such cases of 'mixed marriages' by licence.

It will be noticed that while the old eighteenth-century statute extended to marriages where one of the parties had been a Protestant within the previous twelve months, as well as to those where he or she is still a Protestant, the provisions set up on the repeal of this prohibitory statute affect only cases where one of the parties is at the time of the marriage not a Catholic, so that marriages between an ordinary lifelong Catholic and a recent convert apparently fall into line with ordinary marriages between two lifelong Catholics.

Doubt may be raised, however, by the phraseology of 7 and 8 Victoria, chapter 81 (the Marriages Act, 1844), section 3 of which declares that nothing in the Act is to extend to any marriages by a Roman Catholic priest which may 'now be lawfully celebrated'; while section 49, after providing that no notice to the registrar shall be required in the case of 'any marriage by a Roman Catholic priest which may now be lawfully celebrated,' makes all others 'null and void' unless such notice to the registrar is given.

Needless to say, the only object of the word 'now' is to show that this Act (1844) did not intend to validate any marriages by Catholic priests then illegal, but simply to exclude from its own requirements such as were already legal. Any idea of putting marriages by Catholic priests theretofore and still (after 1844) illegal into a separate category, if and when (as in 1870) subsequently legalized, so as to have the marriages by Catholic priests 'now' legal (in 1844) exempt from the requirements of this Act, and marriages only subsequently allowed subjected to its requirements, because not 'now' (1844) legal, was, of course, in the layman's view, utterly foreign to the intention of the Act. I believe that, without more, any court would take the same

view, and hold that the word 'now' required no such distinct and unintended effect to be given to it. (I use the word 'layman' above in an 'unlegal' not an 'unclerical' sense.)

There is 'more,' however. The concluding words of the Act of 1870 referred to say that it is to be 'considered as incorporated with the said Acts' (one of which is the Act of 1844 referred to), and 'be construed together with the same.'

This has, I have no hesitation in saying, the effect of re-enacting the Acts of 1844 and 1863 (the latter is purely a registration Act), as amended by that of 1870, so that, even if meticulous importance were attached to the 'now' in the Act of 1844, the words 'which may now be lawfully celebrated' speak as from 1870, and take in marriages between a lifelong Catholic and a recent convert as among those 'which may now be lawfully celebrated' by a Catholic priest, and which are, accordingly, specially excepted from the registrar's notice and certificate required by the Act of 1844.

In other words, no priest need feel any hesitation in celebrating a marriage between a lifelong Catholic and a recent convert, as to whether any civil formalities such as required by the Act of 1844 for non-Catholic marriages and by that of 1870 (as amended in 1871) for 'mixed marriages' are required. I feel quite assured that such a marriage stands on the same footing as a marriage between two Catholics, neither of whom has been a Protestant within the past twelve months.

I have thought it desirable to address this communication to your organ, where it is certain, directly or indirectly, to reach the knowledge of all concerned with future marriages (as respects which alone careful attention to such details can serve any good purpose), rather than to the secular press.—Faithfully yours,

F. W. DOHENY (*Solicitor*).

[The above communication does not touch on any of the questions at issue in the widely bruited pending case.—F. W. D.]

#### CONDITIONAL EXTREME UNCTION

REV. DEAR SIR,—The very interesting point raised by your correspondent 'S. L.' in the March I. E. RECORD, that conditional Extreme Unction is not allowable when the probable danger of death is doubtful, can be met by saying that Noldin evidently contemplated a case of necessity, where a priest is

called to a patient and cannot, for some sufficient cause, visit him again or only after a long interval, and no other priest can be had. This case, of course, would be extremely rare in Ireland, but must occasionally happen in missionary countries, where priests are few and travel is difficult. In such circumstances, to administer the sacrament conditionally is only in accord with the well-known principles adopted by all theologians and which are admirably given by Lehmkuhl, 'De Sacramentis Generatim,' No. 38. Treating of Extreme Unction, Lehmkuhl (No. 724) further says: 'Extrema Unctio enim *absolute* conferri debet si homo capax est unctionis sacramenti *valide recipiendi, sub conditione* tum tantum quando dubium est, num *valide* recipere possit.'

Now, according to the opinion of Lehmkuhl and of nearly all theologians, probable danger of death is required for the validity of Extreme Unction. Hence if there is doubt whether there is probable danger of death the sacrament is to be conferred conditionally. The condition in the case is not, as 'S. L.' supposes, 'si periculosa sit infirmitas,' but 'si capax es.' The latter condition allows for the opinion which regards probable danger of death as not necessary for the validity of the sacrament. The opinion of Ærtnys is the same (365, 4): 'Extreme Unctio *absolute* conferri debet si homo capax est illam *valide recipiendi, sub conditione* tum solum cum dubium est num *valide* recipere possit, nam in eodem periculo iterari nequit, et remoto obice reviviscit.' Noldin's opinion, therefore, is not singular, and, I think, there is no theologian who at the present day would hold that the sacrament is to be conferred absolutely in the circumstances.

The second objection of 'S. L.' is that 'if the disease proves fatal the patient dies without Extreme Unction since the first anointing was invalid on account of the conditional administration.' As a matter of fact the first anointing would be invalid in the hypothesis that the disease was not dangerous at the time, not because of the insertion of the condition, but because the subject would be incapable of receiving the sacrament validly according to the common opinion. The insertion of the condition 'si capax es' would be a matter of mere reverence; it would in no way interfere with the validity of the sacrament.

The opinion of the ecclesiastic cited, that the infirmity required for the administration of Extreme Unction depends on the judgment of the minister, and that any infirmity suffices



for validity, is, it is to be feared, not in conformity with the teaching of theologians. It is true that St. Alphonsus asks the question in his *Moral Theology* ('De Extrema Unctione,' No. 714): 'An hoc sacramentum licite conferri possit aegroto in solo putato periculo vitae,' and decides in the affirmative as the 'communis et vera opinio,' but he presupposes that the minister of the sacrament has satisfied himself that the illness is grave, and he gives as a reason that Christ has committed the administration of the sacraments to men and is satisfied with the human estimation of things. At the same time he holds (in No. 713) that if the sickness is not in reality grave, the sacrament is invalid. This opinion he calls 'communio et sequenda,' and cites in support a large number of authors, amongst them Suarez and St. Thomas. The words of the latter are: 'Et ideo illis tantum infirmantibus debet exhiberi qui sunt in statu exeuntium, propter hoc quod aegritudo nata est inducere mortem, et de periculo timetur' (Quaes. 32, art. 2). For the opposite opinion he quotes only two authors of no great standing. This opinion of St. Alphonsus has been adopted by all writers since his day, while researches in historical theology have, I believe, proved that the practice during the first twelve centuries was similar (see *Irish Theological Quarterly*, April, 1907). In support of the above view some writers, notably Ballerini-Palmieri, Ærtnys, and Noldin appeal to the words of the Greek text of St. James, which signify *serious* illness, but the general arguments are the authority of Pope Eugene IV., of the Council of Trent, and the practice of the Church.

In this connexion it is noteworthy that St. Alphonsus holds, in the *Homo Apostolicus* (Tract 17, No. 7), that when Extreme Unction is given in an illness which is 'grave, but not accompanied by danger of death,' the sacrament is valid but unlawful. This distinction does not appear to have been adopted by writers since his time. Ærtnys and Konings, both Redemptorist theologians, do not adopt it, but the latter, in citing it, observes that in practice this opinion will serve to lessen anxiety in judging of the danger of death. Lehmkuhl (No. 722) seems to look on the words 'grave' and 'dangerous' as convertible terms: 'Ergo sufficit morbus gravis seu periculosus,' etc., and, indeed, it is difficult, speaking generally, to find a grave or serious illness which does not involve, at least remotely, a probable danger of death. And that this remote danger is sufficient is plain from the words of St. Alphonsus himself (No. 714): 'Caterum

communiter docent Doctores valide et licite posse dari Extremam Unctionem statim ac prudenter judicatur infirmus laborare periculo mortis, etsi adhuc non proximae'; and he adds the words of Suarez: 'Ut minimum requiritur, ut ex tali infirmitate mors possit moraliter timeri, saltem remote.' The distinction made by St. Alphonsus and his division of illness for theological purposes into four grades may have arisen from the medical opinion of the time which, of course, since then has undergone considerable development. Following on the lines of more recent theological writers it would seem to be a safe and reasonable practice to limit the grades of sickness to three—slight, serious or grave, and proximate to death. Subject to the reservation made above, in the first grade Extreme Unction cannot be given, in the second it can and ought, in the third it must.

T. DUNNE.

## DOCUMENTS

### REVIVAL OF THE ANCIENT CHAPTER OF LIMERICK

#### SACRA CONGREGATIO CONSISTORIALIS

##### LIMERICENSIS

DE CATHEDRALIS ECCLESIAE EIUSQUE CAPITULI CONSTITUTIONE  
DECRETO Sacrae Consistorialis Congregationis diei 7 Ianuarii 1912, SS<sup>mus</sup> D. N. Pius PP. X. ecclesiam S. Ioannis Baptistae in urbe vulgo *Limerich* ad Cathedralis honorem et gradum perpetuo evexit ac extulit, cum iisdem iuribus et privilegiis quibus vetus cathedralis ecclesia ab acatholicis ante duo saecula occupata fruebatur, ibique cathedrale Capitulum instituit iisdem dignitatibus et canonicatibus constans ac vetus illa ecclesia, adiectis tamen canonici theologi et poenitentiarii titulis et officiis.

Romae, e Secretaria S. C. Consistorialis, die 10 Martii 1912.

SCIPIO TECCHI, *Adsector*.

### THE FACULTIES OF BISHOPS IN RELATION TO NEW BREVIARIES

#### DECRETUM

#### DE NOVI PSALTERII EDENDI FACULTATE AB EPISCOPIS NON CONCEDENDA

Cum nuper nonnulli R<sup>mi</sup> locorum Ordinarii Sacram Rituum Congregationem interrogaverint utrum sibi liceat facultatem concedere Typographis respectivae Dioecesis imprimendi 'Psalterium Breviarii Romani cum Ordinario Divini Officii jussu SS. D. N. Pii PP. X. novo ordine per hebdomadam dispositum et editum' necne; Sacra ipsa Congregatio respondit: 'Detur Decretum diei 15 Novembris 1911 in Editione typica Vaticana relatum.'

Tenor autem Decreti hic est:

'Praesentem Psalterii cum Ordinario Divini Officii editionem Vaticanam diligenter revisam et recognitam, ac juxta recentes Rubricarum immutationes, ad normam Constitutionis Apostolicae '*Divino Afflatu*' SS<sup>mi</sup> D. N. Pii PP. X., accuratissime dis-



positam, Sacra Rituum Congregatio typicam declaravit; statuitque, ut novae ejusdem Psalterii editiones huic in omnibus sint conformes, et non imprimantur, nisi a Typographis hujus Sacrae Congregationis, servatisque praescriptionibus ab hac Secretaria tradendis.'

Quod, non obstante Decreto diei 17 Maii 1911, ita servari mandavit.

Die 15 Ianuarii 1912.

L. ✠ S.

✠ PETRUS LA FONTAINE, *Episc. Charystien.*,  
S. R. C. Secretarius.

#### PRIVILEGE OF DOMINICANS

S. CONGREGATIO RITUUM

ORDINIS PRAEDICATORUM

DE PRIVILEGIO PROCESSIONEM CUM SANCTISSIMO SACRAMENTO  
PERAGENDI

De mandato Rm̃i Patris Fr. Hyacinthi Mariae Cormier, Magistri Generalis Ordinis Praedicatorum, Rm̃us P. Fr. Maria Henricus Desqueyrous, Procurator Generalis eiusdem Ordinis, Sanctissimum Dominum Nostrum Pium Papam X. supplicibus votis rogavit, ut privilegium suo Ordini concessum a Sancto Pio V. et confirmatum a Summis Pontificibus Clemente VIII. et Benedicto XIII. nempe processionem agendi qua defertur Sanctissimum Eucharistiae Sacramentum Dominica infra Octavam Solemnis Commemorationis Ss̃mi Corporis D. N. I. C., transferre dignaretur in Dominicam primam post eandem Octavam; siquidem ex novissimo Decreto Urbis et Orbis diei 24 Iunii anni superioris, Processio sollemnis cum Sanctissimo Sacramento quae in *Caeremoniali Episcoporum*, lib. ii. cap. 33, praescribitur, die Dominica infra Octavam Solemnis Commemorationis Ss̃mi Corporis D. N. I. C. ubique peragenda est. Sanctitas porro Sua, referente infrascripto Cardinali Sacrae Rituum Congregationi Praefecto, precibus benigne annuens, indulsit Fratribus memorati Ordinis, ut Dominica prima post Octavam Corporis Christi, Processionem cum Sanctissimo Eucharistiae Sacramento instituere valeant, eo prorsus modo quo a Romanis Pontificibus concessa fuerat eidem Ordini facultas illam agendi Dominica infra Octavam praefatae Solemnitatis.

Contrariis non obstantibus quibuscumque. Die 28 Februarii 1912.

FR. S. CARD. MARTINELLI, *Praefectus*.

✠ PETRUS LA FONTAINE, *Ep. Charystien., Secretarius*.

L. ✠ S.

## VARIOUS LITURGICAL DOUBTS

### S. CONGREGATIO RITUUM

#### DUBIA

Ad Sacram Rituum Congregationem pro opportuna solutione sequentia dubia delata sunt; nimirum:

I. Decurrente anno 1912, Dominicis diebus in quibus, iuxta Praescriptiones temporarias, Missa lecta celebrari potest vel de Festo duplici maiori vel minori occurrente, vel de Dominica, utendumne est, in Missa de Dominica, colore a Kalendario pro Festo occurrente indicato?

II. Anno proximo 1913 Dominica in Septuagesima occurrit die 19 Ianuarii, anticipari propterea debet Dominica II post Epiphaniam. Quum autem in Kalendario Universali singuli dies hebdomadae impediuntur Festis ritus duplicis, praeterquam dies 16 in qua occurrit Festum ritus semiduplicis, et in permultis Kalendariis particularibus nulla dies libera sit a Festo ritus duplicis; quaeritur an Dominica praedicta in Kalendario Universali anticipanda sit per integrum officium, ut antea, die 16 Ianuarii, et in Kalendariis particularibus per simplicem commemorationem die 18 Ianuarii?

III. Quum ex Praescriptionibus temporariis facta sit locorum Ordinariis et Superioribus Regularium facultas expungendi a proprio Kalendario Festa B. M. V. aut Sanctorum ritus duplicis maioris aut minoris Dominicis diebus assignata; quaeritur an ipsi eadem gaudeant facultate, quoad festa fixa particularia a S. Sede indulta, quin necesse sit ad S. R. C. recurrere?

Et Sacra eadem Rituum Congregatio, ad relationem infrascripti Secretarii, audito voto Commissionis Liturgicae, reque accurato examine perpensa, rescribendum censuit:

Ad I. *Negative*; et Missa Dominicalis sicut et Missa ferialis colorem sibi proprium iugiter servet.

Ad II. Officium Dominicae II post Epiphaniam impeditae amodo anticipetur in Sabbato aut in alia praecedenti Feria, in

qua occurrit Festum ritus semiduplicis. Quod si nullum Semiduplex infra hebdomadam habeatur, anticipetur in Sabbato, aut in alia praecedenti Feria, occurrente etiam Festo ritus duplicis minoris.

Ad III. *Negative* et in singulis casibus ad S. Rituum Congregationem negotium deferatur.

Atque ita rescripsit, die 2 Martii 1912.

FR. S. CARD. MARTINELLI, S. R. C. *Praefectus*.

✠ PETRUS LA FONTAINE, *Episc. Charystien., Secretarius*.

L. ✠ S.

**LETTER OF HIS HOLINESS POPE PIUS X. TO CARDINAL  
AMETTE, ARCHBISHOP OF PARIS**

AD LEONEM A. CARD. AMETTE, PARISIENSIVM ARCHIEPISCOPVM,  
DE ALTERO CATECHISTARVM EX TOTA GALLIA CONVENTU  
PARISIIS HABENDO.

Dilecte Fili Noster, salutem et apostolicam benedictionem.—Alias Nos, et quidem libenter, dilaudavimus Opus a Catechismis, quod florere apud vos afferebatur. Nunc autem, quum nuntium allatum est alterius Catechistarum ex tota Gallia conventus proxime, te auspice, Parisiis habendi, comperuimus quoque, miserentis Dei beneficio et adnitentibus bonis, Operi quod memoravimus, eas factas fuisse accessiones, ut ad quadraginta millia numerentur piae feminae quae in instituenda rite pueritia utiliter versantur. Est igitur, dilecte Fili Noster, cur tributae laudi gratulationes addamus; id quod facimus ex animo. Quo voluntatis Nostrae testimonio pias easdem feminas itemque omnes quotquot saluberrimi Operis incrementis student, sic affici velimus ut probatae diligentiae praemium sibi habeant, eisdemque in posterum vel uberius probandae opportuna inde capiant incitamenta.—Hanc vero paternae caritatis significationem confirmet Apostolica Benedictio, quam omnibus Operis sociis, pueris quos erudiunt, tibi demum, dilecte Fili Noster, in auspiciis caelestium munerum, amantissime impertimus.

Datum Romae apud S. Petrum, xxv Ianuarii MCMXII.  
Pontificatus Nostri anno nono.

PIUS PP. X.



LETTER OF HIS HOLINESS POPE PIUS X. TO CARDINAL  
VASZARY, PRIMATE OF HUNGARY

AD CLAUDIUM CARD. VASZARY, STRIGONII ARCHIEPISCOPUM,  
OCTOGESIMUM AETATIS ANNUM EXPLENTEM, GRATULATIONIS  
ERGO

Dilecte Fili Noster, salutem et apostolicam benedictionem.—  
Paterna qua te complectimur benevolentia haud patitur peculiare  
aliquod officii studiiue munus te a Nobis desiderare, in hoc  
tam vario, tam grato animorum concentu tibi gratulantium  
octogesimum aetatis annum. Sint igitur hae tibi litterae voto-  
rum Nostrorum nuntiae: sint vota amantissimae declaratio  
voluntatis aetatem tibi gratulantis haud exiguis ornatam meritis,  
novasque a Deo comprecantis cum annorum, tum meritorum  
accenssiones. Confirmet vero haec vota Nostra Apostolica Bene-  
dictio, quam, caritatis Nostrae testem ac caelestium auspicem  
bonorum, tibi, dilecte Fili Noster, Clero populoque tuae tradito  
pastorali vigilantiae, ex animo impertimus.

Datum Romae apud Sanctum Petrum, die 11 Februarii MCMXII,  
Pontificatus Nostri anno nono.

PIUS PP. X.

REPORT OF BISHOPS REGARDING MODERNISM

SACRA CONGREGATIO CONSISTORIALIS

DECRETUM

CIRCA RELATIONEM SUPER MODERNISMO A LOCORUM ORDINARIIS  
S. SEDI EXHIBENDAM

Dubitantes nonnulli Sacrorum Antistites num ipsi duplicem  
teneantur relationem super modernismo Apostolicae Sedi ex-  
hibere, id est alteram quolibet triennio, a constitutione *Pascendi  
dominici gregis* die 8 Septembris 1907 et a Motu proprio *Sacrorum  
Antistitum* die 1 Septembris 1910 praescriptam; alteram vero  
singulis quinquenniis una cum relatione de statu suae dioecesis  
iuxta huius S. Congregationis decretum *A remotissima Ecclesiae  
aetate* diei 31 Decembris 1909, rem S. Sedi subiecerunt diri-  
mendam. Quum autem subsignatus Cardinalis Secretarius id  
SSmo Dño nostro Pio PP. X. retulisset, hic, ad omnem animi  
anxietatem ac dubitationem tollendam, declarare et, quatenus  
opus sit, statuere dignatus est, locorum Ordinarios, quo anno rela-  
tionem de statu suae ecclesiae peragunt, simul satisfacere posse  
obligationi quae ex supra memoratis constitutione *Pascendi*

*dominici gregis* et Motu proprio *Sacrorum Antistitum* exoritur, atque idcirco relevari ab onere exhibendi triennem relationem super modernismo ibidem statutam : idque per praesens decretum S. Congr. Consist. constitui et promulgari iussit : contrariis non obstantibus quibusvis.

Datum Romae, ex Secretaria eiusdem S. Congregationis, die 25 mensis Ianuarii anno 1912.

✠ C. CARD. DE LAI, *Episc. Sabinen., Secretarius.*

L. ✠ S. SCIPIO TECCHI, *Adessor.*

### DOUBTS REGARDING THIRD ORDERS

#### S. CONGREGATIO DE RELIGIOSIS

#### DUBIA CIRCA TERTIOS ORDINES SAECULARES

##### I.

In plenario Eminentissimorum Patrum Coetu habito ad Vaticanum die 24 Novembris 1911, sequentia dubia proposita fuerunt circa Tertium Ordinem Saecularem S. Francisci Assisiensis :

I. Utrum *Congregationes* Tertii Ordinis S. Franc. Ass. ab una obedientia Primi Ordinis vel a Tertio Regulari Ordine erectae, possint, inconsultis vel invitis Superioribus qui ipsas erexerunt, ad aliam obedientiam valide transire ?

II. Utrum *eaedem Congregationes* ab una Obedientia ut supra erectae et a Fratribus alterius Obedientiae in eadem Provincia vel Civitate commorantibus directae, adhuc sint sub dependentia primae Obedientiae—*erigentis*—ita ut haec possit *easdem Congregationes* visitare et ea omnia perficere quae de iure requiruntur in legitima iurisdictione ?

Et Emi Patres, re mature perpensa, reposuerunt :

Ad I. *Negative.*

Ad II. *In voto Consultoris, seu : Si directio Congregationis Tertiariae ab una Familia Franciscali prius erectae legitime commissa fuerit Fratribus alterius Familiae, Negative ; secus, Affirmative.*

Quas resolutiones SSmus D. N. Pius PP. X., in Audientia habita ab infrascripto Secretario die 6 Decembris 1911, approbare et confirmare dignatus est.

IOS. CAL. CARD. VIVES, *Praefectus.*

✠ DONATUS *Archiep. Ephesin., Secretarius.*

## II.

Praepositus Generalis Ordinis Carmelitarum Excalceatorum Huic S. Congregationi exponit saepe accidere ut Tertiarii saeculares Carmelitarum Antiquae Observantiae et respective Carmelitarum Excalceatorum, cooptari exoptent Congregationi alterius Obedientiae ratione mutati domicilii vel etiam ratione commoditatis. Relate ad Tertiarios Saeculares S. Francisci Assis. nullum dubium, cum extet Decretum S. Congr. Indulgentiarum diei 4 Martii 1903, quod statuit :

1°. Ut novitii tertiarii saeculares S. Francisci professionem emittere valeant in Congregatione alterius obedientiae, seu diversae ab illa in qua ad novitiatum fuerant admissi, si melius eorum commoditati provideatur.

2°. Ut professi eadem de causa transire possint ab una Congregatione ad aliam diversae obedientiae.

3°. Ut Parochus, vel quilibet Sacerdos alicuius Congregationis Tertiariorum Moderator, si alio transferatur ubi alia Congregatio diversae Obedientiae reperiatur, eandem regere possit quin indigeat nova approbatione ; teneatur tamen hac de re certiore facere Visitatorem Regularem, ut cum eodem negotia Congregationis gerere valeat.

Sed huius Decreti occasione, nonnullis Ordinariis et Sacerdotibus ortum est dubium, quod Praepositus Generalis Ord. Carm. Excalc. solvendum proponit huic S. Cong. :

‘An Decretum S. Congr. Indulgentiarum diei 4 Martii 1903 valeat quoque pro Tertiariis saecularibus utriusque Obedientiae Carmelitanae ?’

SSm̃us vero Dñus N. Pius PP. X., in Audientia habita ab infrascripto Cardinali Praefecto, attenta identitate rationum, *affirmative* respondere dignatus est.

Die 16 Ianuarii 1912.

IOS. CAL. CARD. VIVES, *Praefectus*.

# **DECREE REGARDING RELIGIOUS BOUND TO MILITARY SERVICE**

## **S. CONGREGATIO DE RELIGIOSIS**

### **DECRETUM DE RELIGIOSIS, SERVITIO MILITARI ADSTRACTIS.**

Inter reliquas difficultates, quibus premitur Ecclesia Christi nostris temporibus, ea quoque recensenda lex est, qua ad militiam adiguntur etiam iuvenes, qui in religiosis Familiis Deo famulantur.



Nemo sane non videt, quantum detrimenti ex hac infausta lege provenire possit, quum iuvenibus, tum ipsis Sodalitatibus. Dum enim militiae vacant religiosi tyrones, facile vitiis maculari possunt, quibus infecti, vel, neglectis, quae emiserant, votis, ad saecularia remigrabunt, vel quod longe peius est, religiosam repetent domum, cum periculo alios contaminandi.

Ad haec igitur praecavenda mala, Sacra Congregatio, Negotiis Religiosorum Sodalium praeposita, in Plenario Coetu Emorum Patrum Cardinalium, die 26 mensis Augusti 1910 ad Vaticanum coadunato, sequentia decrevit :

I. In Ordinibus Regularibus, in quibus vota sollemnia emittuntur, iuvenes, quos exemptos esse certo non constet a servitio militari activo, scilicet ab eo servitio, quod ipsi primitus ad militiam vocati ad unum vel plures annos praestare debent, admitti nequeunt ad Sacros Ordines vel ad solemnem professionem, quousque non peregerint servitium militare et, hoc expleto, saltem per annum, iuxta infra dicenda, in votis simplicibus permanserint, servato quoad Laicos decreto *Sacrosancta Dei Ecclesia*, hac eadem die edito.

II. In Institutis votorum simplicium iuvenes, de quibus in articulo praecedenti, ad vota dumtaxat temporaria admitti poterunt usque ad tempus militaris servitii : nec illis, dum militiae operam dant, professionem renovare liceat.—A militari servitio dimissi cum fuerint, professionem iterum, saltem ad annum, emittent, antequam professionis perpetuae vinculo se obstringant.

III. Caveant autem iuvenes militiae servientes, ne sanctae vocationis donum amittant ac ea semper modestia et cautela conversentur, quae decet Religiosos viros. Quamobrem a locis et conventiculis suspectis abhorreant, a theatris, choreis aliisque spectaculis publicis abstineant ; malorum commercium, lubricas conversationes, res a religione absonas, viros doctrinas suspectas profitentes, lectiones moribus aut fidei a S. Sedis dictatis contrarias ceteraque peccandi pericula evitent ; ecclesias, sacramenta, quantum eis liceat, frequentare non omittant ; circulos seu coetus catholicos ad animi recreationem et instructionem adeant.

IV. Ubicumque eorum statio ponatur, si ibi domus suae Religionis aut Instituti habeatur, eam frequentent et sub Superioris immediata vigilantia sint.—Si vero domus praedicta non adsit, vel eam commode frequentare nequeant, sacerdotem ab Episcopo designatum adeant, eius consiliis et consuetudine utantur, ut quando eandem stationem deserere oporteat, testi-

monium in scriptis de observantia eorum omnium, quae in articulo praecedenti praescripta sunt, ab eodem accipere valeant.—Quodsi sacerdos ab Episcopo designatus non habeatur, ipsi sibi eligant prudentem sacerdotem, statim indicandum Superioribus suis, qui ab Ordinario de moribus, doctrina et prudentia eiusdem sibi notitias comparabunt. Praeterea, epistolarum commercium instituant ac, quantum fieri potest, sedulo persequantur cum suo respectivo Superiore aliove religioso seu sodali sui Instituti ad id designato, quem certiores faciant de suae vitae ratione et conditione, de singulis mutationibus suae stationis et praesertim illi notificent nomen et domicilium illius sacerdotis, cuius consuetudine et directione utuntur, ut supra praescriptum est.

V. Superiores Generales aut Provinciales etiam locales, iuxta uniuscuiusque Instituti morem, per se vel delegatum sodalem (qui sacerdotali ordine sit insignitus in clericalibus Institutis) de vita, moribus et conversatione alumnorum, perdurante militari servitio, inquirere omnino teneantur, opera praecipue sacerdotis vel sacerdotum, de quibus supra, per secretas epistolas, si opus sit, ut certiores fiant, an ii rectam fidei et morum viam servaverint, cautelas supra praescriptas observaverint et divinae vocationi se fideles praeberint, graviter onerata eorum conscientia.

VI. Cum a militari servitio activo definitive dimissi fuerint, recto tramite ad suas quisque religiosas domus remeare teneatur, ibique, si certo constet de eorum bona conversatione, ut in articulo praecedenti dictum est, praemissis aliquot diebus sanctae recollectionis, qui Institutis votorum simplicium addicti sunt, ad renovandam professionem temporariam admittantur; in Ordinibus vero Regularibus, inter iuniores clericos seu professos, aut saltem in domo, ubi perfecta vigeat regularis observantia, sub speciali vigilantia et directione religiosi, pietate et prudentia commendabilis, qui in Institutis clericalibus sacerdos esse debet, collocentur. In eo statu integrum tempus (quod minus anno esse non poterit iuxta dicta in articulis I. et II.) ad tramitem Apostolicarum Praescriptionum et propriae Religiosae Familiae Constitutionum praemittendum votis solemnibus vel perpetuis, complere debent, ita tamen, ut computetur quidem tempus in votis simplicibus vel temporaneis transactum a prima votorum emissionem usque ad discessum a domo religiosa, servitii militaris causa; non vero quod militiae datum fuit.

VII. Eo tempore, studiis et regulari observantiae dent operam; Superiores autem immediati ac sodales iuniorum

directioni praepositi eos diligentissime considerent, eorum mores, vitae fervorem, placita, doctrinas, perseverandi studium perscrutentur, ut de eis ante ultimam professionem maioribus Superioribus rationem sub fide iuramenti reddere valeant.

VIII. Si qui, perdurante militari servitio vel eo finito, antequam ad professionem solemnem aut perpetuam admittantur, dubia perseverantiae signa dedirent, vel praescriptis cautelis militiae tempore non obtemperaverint, aut a morum vel fidei puritate deflexerint, a Superiore Generali de consensu suorum Consiliariorum seu Definitorum dimittantur, eorumque vota ipso dimissionis actu soluta habeantur. Quodsi ipsi iuvenes a votorum vinculo se relaxari desiderent aut sponte petant, facultas fit Superioribus praedictis, tanquam Apostolicae Sedis delegatis, vota slovendi, si agatur de Institutis clericalibus: si vero res sit de Institutis laicorum, vota soluta censeantur per litteras Superiorum, quibus licentia eis fit ad saeculum redeundi.

IX. Hisce praescriptis teneantur etiam ecclesiasticae Societates, quae, licet non utantur votis, neque solemnibus neque simplicibus, habent tamen simplices promissiones, quibus earum alumni ipsis Societatibus adstringuntur.

X. Si quid novi in hoc Decreto non praevisum, vel si quid dubii in ipsius intelligentia occurrerit, ad hanc S. Congregationem in singulis casibus recurratur.

Quae omnia Sanctissimus Dominus Noster Pius Papa X., referente Subsecretario, rata habere et confirmare dignatus est, die 27 eiusdem mensis Augusti 1910. Contrariis non obstantibus quibuscumque.

Datum Romae, ex Secretaria Sacrae Congregationis de Religiosis, die I Ianuarii 1911.

FR. J. C. CARD. VIVES, *Praefectus*.

✠ DONATUS, *Archiep. Ephesinus, Secretarius*.

L. ✠ S.

#### INTERPRETATION OF THE RUBRICS ACCORDING TO THE BULL 'DIVINO AFFLATU'

##### S. CONGREGATIO RITUUM

##### DECRETUM

##### INTERPRETATIONIS RUBRICARUM AD NORMAM BULLAE 'DIVINO AFFLATU'

Evulgato novo Psalterio, novisque Tabellis Occurrentiae et Concurrentiae Festorum, non una in praxi fuit interpretatio



Rubricarum, quas ad normam Bullae '*Divino afflatu*' Commissio Pontificia ad id instituta confecit, ut videre est in diversis Calendariis pro currenti anno 1912 noviter redactis.

Ad dubia ergo in posterum praecavenda, Sacra Rituum Congratio ad petitionem eiusdem Commissionis Pontificiae, referente infrascripto Secretario, statuit et decrevit :

I. Rubrica de Suffragio Sanctorum, quae in Ordinario Divini Officii ad Laudes et Vesperas habetur, interpretari debet iuxta Tit. VII., n. 4 novarum Rubricarum, et ad ambiguitatem tollendam, praefata Rubrica in posterum sic edatur :

'Deinde, extra tempus Paschale . . . et exclusis diebus, in quibus occurrat quodcumque Officium Duplex aut infra Octavam, aut Dominica in qua commemoretur Duplex simplicatum, fit sequens Suffragium.'

II. Duplicia I. et II. classis sua die impedita, iuxta Tit. III. novarum Rubricarum n. 3, transferri debent in proximiorum diem liberam ab alio duplici I. vel II. classis et ab Officiis huiusmodi festa excludentibus ; transferri tamen non possunt in Dominicam etiam minorem, iuxta n. 2 eiusdem Tituli.

III. Duplicia I. et II. classis certis Dominicis vel Feriis affixa, si perpetuo impediuntur, iuxta novas Rubricas Tit. IV., n. 2, reponenda sunt in feriam proximam insequentem per singulos annos liberam ab alio Duplici I. vel II. classis aut ab aliqua die Octava, vel ab officiis huiusmodi festa excludentibus, non vero, ut censent nonnulli Liturgistae, in primam diem ut supra liberam, post ambitum dierum infra quos incidere possunt.

IV. Licet iuxta novam Concurrentiae Tabellam, in concursu Duplicis maioris cum alio Duplici maiori, totum fieri debet de Nobiliori cum commemoratione de alio, ideoque Festum Domini duplex maius Secundarium cedere debeat Festis eiusdem ritus B. Mariae Virginis aut Sanctorum Primariis ; nihilominus, quando Festum Domini Duplex maius secundarium in Dominica die occurrens concurrit cum festo Duplici maiori primario B. Mariae vel Angelorum vel Sanctorum, Vesperae erunt de praefato Festo Domini, quia in casu Officium Festi Domini subrogatur Officio Dominicae.

Die 24 Februarii 1912.

FR. S. CARD. MARTINELLI, S. R. C. Praefectus.

✠ PETRUS LA FONTAINE, Episc. Charystien., Secretarius.

L. ✠ S.

## SIMPLE FEASTS HAVING PROPER ANTIPHONS

## S. CONGREGATIO RITUUM

## DECRETUM

## DE SIMPLICIBUS ANTIPHONAS PROPRIAS HABENTIBUS

Insequentia dubia, quoad Antiphonas et Psalmos ad Laudes, iuxta novas Rubricas, in quibusdam Festis ritus simplicis et in Officio S. Mariae in Sabbato recitandos, Sacrae Rituum Congregationi pro opportuna solutione proposita fuere; nimirum:

I. An in Festis simplicibus quae habeant ad Laudes Antiphonas proprias, ex alio Festo desumptas, ut in Festo S. Agnetis secundo, ad Laudes dicendi adhuc sint Psalmi de Dominica cum Antiphonis Festi simplicis; vel potius Antiphonae et Psalmi de Laudibus Feriae occurrentis, et a Capitulo et deinceps de Festo simplici?

II. An in Officio S. Mariae in Sabbato ad Laudes dicendae sint Antiphonae ipsius Officii cum Psalmis Dominicae; vel potius Antiphonae et Psalmi de Sabbato occurrente, et a Capitulo et deinceps de S. Maria?

Et Sacra eadem Congregatio, ad relationem infrascripti Secretarii, audito voto Commissionis Liturgicae, reque accurate perpensa, ad utrumque dubium respondendum censuit:

Negative ad primam partem, affirmative ad secundam.

Atque ita rescripsit die 26 Ianuarii 1912.

FR. S. CARD. MARTINELLI, *Praefectus*.

✠ PETOUS LA FONTAINE, *Episc. Charystien., Secretarius*.

L. ✠ S.

## NOTICES OF BOOKS

A LARGER CATECHISM OF THE CHRISTIAN DOCTRINE FOR ADVANCED CLASSES. By Rev. John Doyle, P.P., Canon of Ferns. Dublin: Browne & Nolan, Ltd. 1912.

THIS *Catechism* has been translated and adapted from the French of Cardinal Goossens, the late Archbishop of Mechlin and Primate of Belgium. It is published with the *imprimatur* of His Lordship the Bishop of Ferns, and deserves the attention of the clergy. I cannot say that it appears to me altogether an ideal catechism; but it undoubtedly has a great many good qualities, and I doubt if there is a better available in English for advanced catechism classes. The wording might easily be improved in many places, and the adaptation might have been more perfect, but taking it all in all I think Canon Doyle has rendered the country a very valuable service in translating it.

I think, for instance, the chapter on 'Marriage' might have been made fuller, and that the modifications of the decree *Ne Temere* might have been more clearly set forth. Yet such as it is the answers given would have saved some people recently from serious blunders if they happened to have them at hand. Thus:—

'Q. Before whom must people get married?'

'A. Before their own Parish Priest, or a priest delegated by him, *and two witnesses*. Without the presence of these three persons the marriage would be null.'

This would need some slight qualification; but there is sufficient truth in it to deter anyone in these countries from making a serious mistake.

Apart from such questions as this, however, there is no doubt that a vast amount of light is thrown for young people on the answers of the elementary catechism by the fuller and more explicit answers given in this one. They would still require some improvement in the wording, and some additions here and there: but on the whole the young people who follow this *Catechism* and master it, will have a good grasp of the Christian Doctrine, and that is the principal consideration.

J. F. H.



STUDIES. An Irish Quarterly Review of Letters, Philosophy and Science. Dublin : M. H. Gill & Son, Ltd.

THIS important Review may be said to be the first great literary result of the establishment of the National University. Its programme is varied and attractive and its staff of writers endowed with a great variety of gifts. We give it a hearty welcome and wish it a long career. The fact that it is edited by a distinguished Jesuit professor, and the large preponderance of Jesuit writers in the first number, suggests that it is intended to be for this country something like what the *Civiltà Cattolica* is for Italy, the *Stimmen aus Maria Laach* for Germany, *Les Etudes* for France, *Razon y Fe* for Spain, and *America* for the United States. We do not know whether that is quite the case ; but, should it be so, our welcome would be none the less cordial ; for the Ireland of the future will be much in need of clear thinking and enlightened consideration of all sorts of problems in literature, science, art, philosophy ; and judging from the contents of this first number of *Studies* we feel certain that it will get all that in the new review. At all events it is a signal mark of the advance of learning and culture amongst Irish Catholics, and on that account alone would deserve the warmest welcome from all who value the high and general things of life, and do not quite confine their speculations and their thoughts to the little sod beneath them.

The Quarterly opens with a poem written very judiciously in *quarterly* style. There is nothing frivolous or flighty about it. It is staid and decorous and classic in its heroic lines, and its subject is 'The Theft of the Hounds of Finn.'

Father H. V. Gill writes on 'The Electrical Theory of Matter.' His article is learned and interesting, as one might expect, but his conclusions are a little shadowy. It is from such shadows, however, that light often comes.

Under the title of 'The Legend of the Hermit and the Angel,' Father George O'Neill writes an exceedingly interesting paper on 'Thomas Parnell,' author of *The Hermit*.

Alfred J. Rahilly writes on 'The Meaning of Evolution,' in the course of which he discusses 'Bergson' and his theories. No review is now fashionable without a discussion of Bergson. Yet what apparently is the result ? It is contained in the skit of Molière brought up to date —

'Demandabo causam et rationem quare  
Evolutio facit res creari ?'

The Doctor Bachelierius replies :—

‘ Quia est in ea virtus creativa  
Cujus est natura omnia produire.’

‘ The Gallican Church and the National Assembly ’ is the title of an interesting article in which Dr. O’Sullivan tries to take his bearings in the seething foam of the French Revolution. He succeeds pretty well ; and we have no serious quarrel with his conclusions.

‘ Hedonism,’ by Father Canavan, is quite in its place in such a learned review. It is very readable, very general in its view, and very reminiscent of Walter Pater.

Father E. Power, S.J., writes an excellent article, ‘ The Tradition of Islam.’ ‘ Athenian Imperialism ’ is another Hedonist article. It is written by Rev. J. M. Murphy, S.J., and introduces us to many of the social customs of Ancient Greece. Father Corcoran’s article on ‘ Newman’s Ideals and Irish Realities,’ discusses the great Cardinal chiefly as an educator. ‘ The Development of the Irish Judicature ’ by Professor Murnaghan worthily represents the legal side of learning, whilst Mr. T. M. Kettle on ‘ The Future of Private Property ’ writes brilliantly as usual, perhaps a little too brilliantly for so dismal a subject. Mr. Kettle quotes M. Faguet with great approval in the course of this article, and in many respects he reminds us of Faguet. Emile Faguet is a brilliant man of letters and professor of literature who makes an excursion now and again into the sombre region of economics. Mr. Kettle is a professor of the sombre science of economics who makes a brilliant dash very often into the region of letters. Nobody takes Faguet very seriously when he deserts his poets and his chroniclers and romancers. Nobody will take Mr. Kettle very seriously if he goes any farther in the direction of applying poetic diction to potatoes and salt. His article, nevertheless, is very thoughtful, and though we should have wished to see him go deeper into principles and more closely into analysis, we think that, on the whole, he is proceeding on sound lines. We cannot quite accept his groundwork, nor all the structures he builds on it. It is, perhaps, natural that a future minister of an Irish government should show a tendency to promote State centralization, but there is a good, sound, conservative weight of opinion still in his way, which will not be very easily overcome. Not that we think the sky will fall or the Church collapse if Irish railways are nationalized ; indeed, from a national and industrial point of view there is much

to be said for it ; but suppose the present owners object they must, we suppose, be paid off, and this will mean an immense national debt which for a young government, even if it is given power to contract it, will be scarcely a wise undertaking. Perhaps a less radical remedy might be tried before the axe is laid to the root of the tree. The Bulletin and varied notes that follow the articles are very interesting and learned, and the few reviews full and critical.

As we have not been favoured with a published copy of the Review, but only with the advanced sheets, we are not able to say whether the numerous misprints and errors that we have noticed have been corrected. We hope they have : as it would be a pity there should be anything to cavil at in so learned and well produced a periodical. Apart from all minor criticisms that might be passed upon it we will say, however, that we regard it as a splendid outcome of Irish Catholic learning and refinement. We wish it complete success, and congratulate its staff on the appearance and excellence of their first number.

J. F. H.

THE PRICE OF UNITY. By B. W. Maturin. London : Longmans, Green & Co. 1912.

THIS is an exceedingly interesting work, concerned chiefly with High Church Anglicans and converts to Catholicism. Its aim is to reveal to us—and in the process there is a good deal of self-revelation—what a High Church Anglican leaves behind him, and what he has to face, the sacrifices he has to make, and the disappointments he has to endure. It has severe reproof for those converts who speak with contempt and ridicule of their past beliefs, and minimize or deny all the good that was in them, under the false impression that this recommends them to those whose lot has placed them in the Church from the first.

‘ They often seem like people who are underbred, and find themselves among their social betters, and in their efforts to adopt their manners and ways and to show themselves thoroughly at home with them, defeat their aim, and only advertise their vulgarity and lack of breeding.’

Father Maturin shows how St. Paul behaved in similar circumstances and applies the lesson. That he himself is none the less sincere and ardent in his devotion to the Catholic Church may be judged from the following. He is discussing the position of those who are asked to leave matters as they are, that much



more learned and devout people were content to do so, and that Protestants often deteriorate when they become Catholics, and he says :—

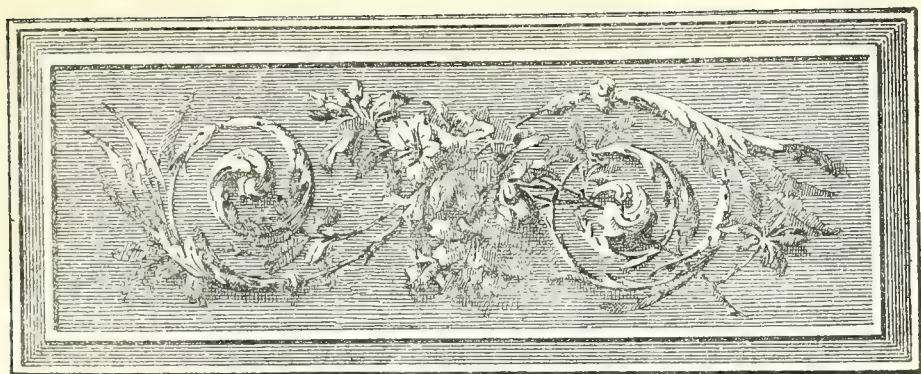
‘ And any man still wavering in the balance of uncertainty must feel the force of such an appeal : “ If Liddon and Pusey and Keble and scores of others . . . could stay where I am, why can’t I do the same and throw the responsibility on the shoulders of the learned, who know far more than I do, and who believe they can answer the questions that bewilder me ? If they could remain where they were and yet keep so near to God, why can’t I be content to follow humbly in their footsteps ? ”

‘ Now it may be said in answer that all this talk of people deteriorating when they become Catholics is simply an instrument forged in the furnace of Protestant prejudice and hatred to the Catholic Church, which is incapable of forming a right opinion of what sanctity is, and takes the light-hearted joyousness of Catholic faith, and the healthy revolt from the strait-laced harshness and narrowness of Protestantism as signs of deterioration.’

The development of this line of thought is admirably worked out. On the whole, the ‘ Price of Unity ’ is not so great if people would only screw up their courage and face it manfully.

The convert’s view of things Catholic, his first impressions and his abiding ones, are deeply interesting, and will be very instructive to the Catholic clergy as well as to outsiders. A learned book clearly written, reasonable and sensible in every page, and well worthy of attention.

J. F. H.



## TWO FAMOUS IRISH MARRIAGE CASES

THE QUEEN *v.* MILLIS, AND BEAMISH *v.* BEAMISH

### I.

**I**N a case recently argued before a Divisional Court in the King's Bench Division in Dublin on a motion for a new trial of an action involving the question of the legal validity of a marriage, frequent references were made to the marriage cases mentioned in the title of this paper. These were cases that, after being decided in the Courts in Dublin, were brought to the House of Lords, and were finally decided there, one in 1844, the other in 1861.

The case in connexion with which they have now come once more into prominent notice has occupied a good deal of public attention. It may add to the interest with which the reports, whether of the arguments of counsel or of the judgments delivered, or that may yet be delivered,<sup>1</sup> in the case, will be read, to have at hand in convenient form a statement of *The Queen v. Millis* and *Beamish v. Beamish* cases in their general bearings. It is right for me to state that in what I have written upon these cases I have had

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<sup>1</sup> Since this paper was written, judgment has been given in the case above referred to. The Court has refused to grant a new trial, but, of course, an appeal is always possible.

the advantage of having the proofs read with care by a legal friend. I mention this, that the readers of the I. E. RECORD may have an assurance that what I have written is free of anything that could be regarded as a legal solecism.

I purpose devoting two papers to the *Millis* case, and one to *Beamish v. Beamish*.

The *Millis* case passed through three stages: (1) At the Antrim Assizes; (2) in the Court of Queen's Bench, Dublin; and (3) in the House of Lords. The first and second of these will be dealt with in the present paper.

#### 1.—The Queen *v.* *Millis* at the *Antrim Assizes*.

The facts of the *Millis* case were as follows: In January, 1829, at Banbridge, in the County of Down, George *Millis*, a member of the then Established Church of England and Ireland, went through an ordinary form of marriage with one *Hester Graham*, in the presence of a Presbyterian minister, the Rev. John *Johnstone*, who performed the religious ceremony usual amongst Presbyterians on such occasions.<sup>1</sup> After *Millis* and *Hester* had lived together for two years as man and wife, he went away to England, and in 1836—she being still alive—he went through the form of marriage in a parish in Devon with another woman, *Jane Kennedy*. She, like *Millis* himself, was a member of the Established Church, and the religious ceremony was duly performed by the officiating minister of the parish.

On these facts becoming known to the authorities, *Millis* was indicted for bigamy, and he was put upon his trial at the Spring Assizes for the County Antrim in 1842. The facts could not be disputed, but a point of law was

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<sup>1</sup> *Hester Graham* seems to have been a Presbyterian. But it is not quite clear whether she was a Presbyterian or a member of the Established Church. That point was left open in the argument of the case. As we shall see, it could make no difference in the case, to which form of Protestantism she belonged.



raised by counsel for the defence. The marriage between Millis and Hester Graham was, he contended, no marriage in point of law. Millis was a member of the Established Church. Could a member of that Church be validly married by a Presbyterian minister? In 1781, by an Act of the Irish Parliament (21 and 22 Geo. III. c. 25), the validity of marriages 'between Protestant Dissenters,' solemnized or celebrated by 'Protestant Dissenting ministers or teachers,' was established. But the marriage in question in the Millis case was not a marriage 'between Protestant Dissenters': one at least of the contracting parties, Millis himself, was a member of the Established Church. The Act of 1781, then, did not cover the case; and on what authority could it be held that in such a case a marriage celebrated by a Presbyterian minister, or by any other Protestant Dissenting minister, was valid?

The point thus raised was obviously one of exceptional importance. If the marriage of Millis and Hester Graham was invalid, it was plain that, especially in the North of Ireland, there were hundreds of marriages that should on the very same grounds be held invalid. And, the marriages being invalid, the children born of those marriages were illegitimate; and moreover, as a consequence of a well-known rule of English law, they could not be legitimated by a subsequent marriage of the parents.<sup>1</sup>

By direction of Mr. Justice Perrin,—the Judge who presided at the trial,—the Jury brought in what is known as a 'special' verdict, that is to say, a verdict (1) finding all the facts that had been proved before them and that were necessary for the determination of the case, (2) leaving it to the Court to give a decision on the point of law that had been raised, and (3) finding the accused, as far as the Jury were

<sup>1</sup> 'The law of England and Ireland differs from that of Scotland and from the legal systems of many other Christian countries in a material article. The subsequent marriage of the parents will not legitimate spurious offspring. "Once a bastard always a bastard" has been truly said to be the English rule. . . .

"The transcendent power of Parliament" (1 Blackstone, *Comm.*, 459) alone can legitimate spurious issue, e.g., the natural children of John of Gaunt were made legitimate by statute (20 Rich. II.).—*Encyclopædia of the Laws of England* (10th edition), art. 'Bastard,' vol. ii. p. 30.

concerned, 'Guilty' or 'Not Guilty' according as that point was decided one way or the other.<sup>1</sup>

The case was then set down for argument in the Court of Queen's Bench in Dublin.

2.—The Queen *v.* Millis *in the Court of Queen's Bench, Dublin.*

The Judges of the Court then were: The Lord Chief Justice (Pennefather), Mr. Justice Burton, Mr. Justice Crampton, and Mr. Justice Perrin. For the Crown there appeared, The Attorney-General (Blackburne) and Mr. Holmes; for the prisoner, Mr. T. B. C. Smith, Q.C. and Mr. Whiteside.<sup>2</sup>

The case for the Crown,—upholding the validity of the marriage of Millis and Hester Graham,—was opened by Mr. Holmes.

There is here, he said, a marriage contract between the parties, entered into *per verba de praesenti*, in the presence of three witnesses and a clergyman of the Presbyterian Church, followed by cohabitation for two years, and this

<sup>1</sup> This is the usual form of 'special' verdict. On special verdicts see, for instance, the *Encyclopædia of the Laws of England* (10th edition), vol. xii. pp. 452, 453.

<sup>2</sup> The counsel charged with the duty of arguing the various points involved in this important case were of high distinction in their profession.

The Attorney-General, Mr. Blackburne, was afterwards Lord Chief Justice of the Queen's Bench (1846-52), Lord Chancellor (1852), Lord Justice of Appeal in Chancery (1856-66), and Lord Chancellor a second time (1866-67).

Mr. T. B. C. Smith was afterwards Master of the Rolls (1846-66).

Mr. Holmes,—a brother-in-law of Robert Emmet, with whom he strongly sympathized, and had on that account suffered imprisonment in his early life,—was, at the time of the Millis trial, in his seventy-seventh year. He had then long held at the Bar a position of commanding prominence. Throughout his professional career he had kept steadfastly aloof from both the political parties that had the dispensing of patronage. Notwithstanding this, he had been offered a judgeship, but he declined it, as he had declined even the offer of a silk gown. In 1846, in his 80th year, he defended Charles Gavan Duffy,—then on his trial on a charge of seditious libel—in a speech of rare eloquence and power. Two years later he defended John Mitchel in a speech hardly less memorable.

Mr. Whiteside, a junior barrister, was already of established fame as an advocate. He was one of the counsel chosen by O'Connell to defend him and his fellow 'traversers' in the State Trial of 1844. Eventually he was Lord Chief Justice of the Queen's Bench (1866-76).

contract, the Court is asked by counsel for the prisoner to decide is not a valid marriage according to the law of Ireland. In opposition to this, two propositions, he said, are submitted by the Crown.

In the first place, *putting altogether out of consideration the presence of the Presbyterian clergyman*, the marriage contract *per verba de praesenti*, entered into in the presence of witnesses, and followed by cohabitation as man and wife, constituted by the law of Ireland a valid marriage.<sup>1</sup>

Secondly, if the Court be of opinion that the presence of a minister of the Christian religion is necessary to give validity to the contract, *the presence of a Presbyterian clergyman* is perfectly sufficient.<sup>2</sup>

To make good his first proposition, Mr. Holmes quoted authority after authority to show that 'by the law of nature, and by the civil and canon law as established in England, Scotland, and Ireland, a contract *per verba de praesenti* followed by cohabitation, is a valid marriage.' The State might, no doubt, insist upon certain forms or conditions as necessary to make a marriage valid for its own legal purposes; but the fact that the State had so intervened, if it had intervened, should be clearly proved, whether by reference to legal enactments or otherwise.<sup>3</sup>

As 'the common law,'—the 'common law' of England and of Ireland,—will be referred to from time to time in the following pages, some words of explanation as to what

<sup>1</sup> As we proceed we shall see that neither the presence of witnesses nor the subsequent cohabitation really entered into the consideration of the case. Every argument available in proof of the validity of the marriage would have been equally available if there had been no witnesses of the contract, and no cohabitation.

<sup>2</sup> *Report of two Cases upon the Marriage Law of Ireland*, Dublin, 1842, p. 7. The two cases referred to are *The Queen v. Millis*, and a similar case, *The Queen v. Carroll*.

In the footnotes to the subsequent pages of this paper, that Report will be referred to as '*Report*, etc.'

<sup>3</sup> The object of this paper is merely to indicate in a general way the salient points of the case. It would manifestly be impossible to present here even a summary of the various arguments and judgments, the full reports of which fill no fewer than 705 printed pages.



the common law is, and as to its origin and the source of its authority, may not be out of place here.

In addition to the body of enacted law contained in the Statutes or Acts of Parliament, there is in force in these countries another large and important body of law, not enacted in any statute, and designated the common law.<sup>1</sup> To this belong, for instance, such settled principles of law as that the eldest son alone is his father's heir, that property may be acquired and transferred by writing,<sup>2</sup> and, as Blackstone expresses it, 'an infinite number of . . . particulars which diffuse themselves as extensively as the ordinary distribution of common justice requires.'<sup>3</sup>

As to the origin of the common law and of its binding authority, there are two theories.

In Blackstone's view, the common law is simply the embodiment of the ancient customs of the realm, customs that derive their authority from the fact that they have come down from a time 'whereof the memory of man runneth not to the contrary.' In this view of the common law, the Judges are its custodians and authorized expositors; they cannot make law; they can but declare what the law upon any point is; in this they must follow precedent; they are not delegated to pronounce a new law, but to maintain and expound the old one.<sup>4</sup>

On the other hand, in the view of Austin, the Judges, whilst bound not to depart from precedent, wherever a precedent exists, are competent to decide, in accordance with the general principles of law, cases for which there is no existing precedent: in this respect they are 'subordinate legislators,' authorized not merely to interpret law, but to make it.<sup>5</sup>

Now as to the English law of marriage. No Act of

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<sup>1</sup> On the distinction between the '*jus commune*' of the canonists, and the 'common law' of English lawyers, see Dr. F. W. Maitland's *Canon Law in the Church of England* (London, 1898), p. 4.

<sup>2</sup> See 1 Blackstone, *Comm.*, 68.

<sup>3</sup> *Ibid.*

<sup>4</sup> *Ibid.* 67.

<sup>5</sup> See Austin, *Lectures on Jurisprudence*, Lectures 28, 29, 37-39.

Parliament regulating marriage in England was enacted until the year 1753, when the English Marriage Act of that year, known as Lord Hardwicke's Act,<sup>1</sup> was passed.

The reason why so many centuries were allowed to elapse without any marriage law being enacted by Parliament, is obvious. In England, marriage was recognized as a matter of ecclesiastical jurisdiction only. No question as to whether certain persons were validly married would be dealt with in any temporal court. Such questions,—even when they arose in the course of a claim to the ownership of property,—were handed over to the ecclesiastical court of the diocese, and were there decided by the Bishop or his representative. The decision of the ecclesiastical court was then notified to the Judge of the temporal court, who applied it to the case before him, and decided the case in accordance with it.

Now, in the ecclesiastical courts, the only law administered was the canon law. Marriage, then, was regulated by that law, and by it alone. And this was so, not only in pre-Reformation days, but, as regards England, down to the year 1753, and, as regards Ireland, to a much later time,—and, except in so far as it may have been affected by statutes,—to the present day.

In a sense it can be said that the canon law of marriage was thus recognized in England as part of the common law. This, however, must not be taken to imply that anyone in England, whilst England was Catholic, supposed that this important section of the canon law, thus embodied in the common law, became thereby subject to the controlling legislative authority of the realm, and therefore capable of being modified by that authority. This raises a point of considerable importance, which may, however, be reserved until we are considering the *Millis* case in its last stage, before the House of Lords.

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<sup>1</sup> Under that Act (26 Geo. II. c. 33), a marriage in England, to be valid, should be celebrated according to the rites of the Established Church, in a place of worship belonging to that Church, and in presence of one of its ministers.

The Act applied to the marriages of Catholics as well as to those of Protestants. Quakers and Jews alone were excepted. It was repealed only in 1836.

As Mr. Holmes, then, stated at the outset of his argument, the canon law had governed marriage in England down to 1753, and still continued to govern marriage in Ireland.<sup>1</sup> Now, in the canon law,—from, at all events, the publication of the Decretals by Gregory IX. in 1234, down to the legislation of the Council of Trent,—nothing more was required to constitute a valid marriage than a contract entered into *per verba de praesenti* between the parties, irrespective of the presence, whether of any minister of religion or of any witness. As the decrees, then, of the Council of Trent were not recognized by English law as affecting in any way the legal validity of marriages in England or in Ireland, the marriage of Millis and Hester Graham, being a contract *per verba de praesenti*, was, Mr. Holmes maintained, perfectly valid.

Of the various authorities on which he relied in support of his general view, thus stated in outline, one of the most notable was Lord Stowell,<sup>2</sup> an ecclesiastical and admiralty judge of the highest eminence. He was Judge of the Consistorial Court of London.

In the case, *Dalrymple v. Dalrymple*, in which the judgment relied upon by Mr. Holmes was delivered by Lord Stowell, there was question of the validity of a marriage that had taken place in Scotland. But in that judgment Lord Stowell went at considerable length into an examination of the law of marriage generally, and, in particular, of the law of marriage in England as it stood before the enactment of Lord Hardwicke's Marriage Act of 1753; and this part of his judgment had always been regarded as a statement of the law by one who was held in the very

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<sup>1</sup> That is to say, there was no statute in Ireland annulling a marriage such as that before the Court in the Millis case,—a marriage of two Protestants by a Presbyterian, or other Protestant Dissenting minister.

There was in force a statute of 1745 (19 Geo. II. c. 13),—repealed only in 1870,—by which marriages celebrated by a Catholic priest, between a Catholic and a Protestant, or between a Catholic and a person who had professed the Protestant religion within the preceding twelve months, were declared void.

<sup>2</sup> Sir William Scott, Lord Stowell, was the eldest brother of John Scott, Lord Eldon, the famous Lord Chancellor of England.



highest estimation, both as a scholar and as a lawyer specially skilled in the law of marriage.<sup>1</sup>

Marriage, said Lord Stowell, is a contract of natural law. In civil society it becomes a civil contract. In most civilized countries, it has had the sanctions of religion super-added. It then becomes a religious, as well as a natural and civil contract; for it is a great mistake to suppose that because it is the one, therefore it may not likewise be the other.<sup>2</sup>

And, then, after a reference to the Jewish dispensation as illustrated by Selden's treatise *De Uxore Ebraica*, he proceeded:—

In the Christian Church marriage was elevated . . . to the dignity of a sacrament in consequence of its divine institution. The law of the Church, the canon law, . . although, in conformity with the prevailing theological opinion, it revered marriage as a sacrament, still so far respected its natural and civil origin as to consider that *where the natural and civil contract was formed*, it had the full essence of matrimony without the

<sup>1</sup> Referring to Lord Stowell's judgment in *Dalrymple v. Dalrymple*, Lord Denman, in giving judgment in the *Millis* case in the House of Lords, spoke as follows:—

'No man of education, or possessing those literary habits that indicate a gentleman and a scholar, no one endowed with a liberal curiosity on general matters of the most interesting research, can be ignorant of Lord Stowell's judgment in the case of *Dalrymple v. Dalrymple*.

'Lord Stowell there goes through the whole of the authorities, and gives a judgment which never can be forgotten, or read without the highest admiration; but its principal value consists in the clearness of his argument and the conclusiveness of his reasoning. . . .

'I well remember the sensation excited by that remarkable composition, the admiration that it excited, and the value that was attached to it.

'Lord Chief Justice Gibbs and the whole Court of Common Pleas had a speedy opportunity of declaring their adhesion [see p. 458]; so has every Judge of every Court when the point has come under discussion.

'Considering the circumspection, the sagacity, the practical wisdom of that great master of the law of marriage, his love of order and discipline; his habitual desire to uphold the controlling power of the Church; considering, too, the decisions of Common Law authority by which it was both preceded and followed, I feel that that doctrine cannot be rejected without undermining the whole fabric of judicial authority.'—(10 Cl. and Fin. 823, 825).

The abbreviation 'Cl.' and 'Fin.' is that used in law-books to indicate a well-known series of Reports of cases decided in the House of Lords, edited by Messrs. Clark and Finnelly (pronounced with the accent on the second syllable), barristers-at-law.

<sup>2</sup> *Report*, etc., p. 19.

intervention of the priest ; *it had, even in that state, the character of a sacrament*, for it is a mistake to suppose that this intervention was required, even for that purpose, before the Council of Trent.<sup>1</sup>

We shall see that as the arguments proceeded, counsel at the other side contended that, since the marriage in question in *Dalrymple v. Dalrymple* was a Scotch marriage, that part of Lord Stowell's judgment in which he dealt with the marriage law of England was spoken *obiter*, and therefore could not be quoted as of judicial authority. The views taken of this point in the House of Lords will be stated as we proceed.

Another of the legal authorities upon which Mr. Holmes relied was the decision in a notable case, *Lautour v. Teesdale*. It was to this case that Lord Denman referred, in saying that Lord Chief Justice Gibbs and the whole Court of Common Pleas had a speedy opportunity of declaring their adhesion to Lord Stowell's exposition of the law.

In *Lautour v. Teesdale* there was question of the validity of the marriage of two British subjects at Madras, where they resided. They were married in a private room by a Catholic priest, a Portuguese, but without a licence from the Governor, which it was the custom at Madras to obtain.

The case came before the English Court of Common Pleas, where the marriage was upheld. A priest, as we have seen, was present at it, but the Court rested its decision, not upon the presence of the priest, but upon the fact that there was a contract *per verba de praesenti*. As the Chief Justice expressed it,—

British subjects settled at Madras are governed by *the laws of this country [England], which they carry with them*. . . The question therefore, is whether, by the law of this country, to which alone they are subject, . . . this marriage was legal.

In this country we judge of the validity of a marriage by

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<sup>1</sup> *Report, etc.*, pp. 20, 21.

what is called the Marriage Act; but as *that statute does not follow subjects to foreign settlements*, the question remains whether this would have been a valid marriage here *before that Act passed*.

The important point of the case, namely, what the law is by which such a marriage is to be governed, was most ably and fully discussed in the case of *Dalrymple v. Dalrymple*, which has been alluded to, and the judgment of Sir William Scott [Lord Stowell] has cleared the present case of all the difficulty which might at a former time have belonged to it.

From the reasonings there made use of, and from the authorities cited by that learned person, it appears that the canon law is the general law throughout Europe as to marriages, except where that has been altered by the municipal law of any place; and that, before the Marriage Act, marriages in this country were always governed by the canon law, which the defendants, therefore, must be taken to have carried with them to Madras.

It appears also that by that law, a contract of marriage entered into *per verba de praesenti*, is considered to be an actual marriage,—though doubts have been entertained whether it be so, unless followed by cohabitation. In the present case a ceremony was performed, *the regularity of which it is unnecessary to discuss because it was followed by cohabitation*; all that is required, therefore, by the canon law has been amply satisfied.

To this decision Mr. Holmes was able to point as an express decision of the Court of Common Pleas in England, in accordance with the judgment of Lord Stowell, that the canon law was the law of marriage in England before the Marriage Act, and that, therefore, by the law of England before that Act, a contract *per verba de praesenti* was a valid marriage.<sup>1</sup>

Mr. Holmes then passed on to another branch of his argument. The Marriage Act of 1753 excepted from its operation Quakers and Jews.<sup>2</sup> They, then, were not subjected to the disability which that Act inflicted upon the Catholics, and they naturally continued to perform their marriage ceremonies in their own places of worship, and

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<sup>1</sup> *Report*, etc., pp. 30, 31.

<sup>2</sup> See p. 455, footnote.



in the same manner as before. But the Act of 1753 did nothing to make their marriages valid. It simply left them as they stood at common law.

Now the marriages of the members of the Society of Friends on the one hand, and of the Jews on the other, were admitted on all hands to be legally valid. Yet there never have been clergymen in holy orders present at those marriages. In the Society of Friends indeed there are no clergymen at all. How could the marriages in those two religious bodies be valid at common law if that law did not regard a contract *per verba de praesenti* between the parties as sufficient to constitute a valid marriage?<sup>1</sup>

There is one other point that should not be left out of sight even in this merely summary statement of Mr. Holmes's argument. It was, however, a point put forward by him, not as an integral part of his case, but by way of forestalling a difficulty that he felt would be raised at the other side. He put it thus:—

It will be said on the other side that the wife, upon such a marriage as this, would not be entitled to dower<sup>2</sup> by the common law, nor to a grant of letters of administration in the ecclesiastical court;<sup>3</sup> and they will argue from this that the marriage is therefore invalid.

The decisions and the practice in such cases, however, do not support this view, for *the marriage may be good and valid, although of a nature to deprive parties of certain civil and temporary rights relating merely to property.*<sup>4</sup>

Mr. Holmes, of course, had no difficulty in recognizing that marriage entered into merely *per verba de praesenti*, without the presence of a clergyman, was imperfect *as to*

<sup>1</sup> *Report, etc.*, pp. 24, 25, 31-35.

<sup>2</sup> This was an old common-law right by which, on the husband's death, his widow was entitled, under certain conditions, to a certain share of his real property for her life. Except in the event of the husband's dying intestate, the right of dower is no longer of practical importance.

<sup>3</sup> Until after the middle of the last century, the ecclesiastical court had exclusive jurisdiction in matters of probate and of the administration of the goods of persons dying intestate.

<sup>4</sup> *Report, etc.*, p. 25.

certain civil effects, and he quoted from a judgment of Lord Stowell's<sup>1</sup> a passage to the same effect :—

Rights of property are attached to the marriage contract on very different principles in different countries. In some, there is a *communio bonorum* ; in some, each retain their separate property. By our law it is vested in the husband.

Marriage may be good, *independent of any considerations of property*, and the *vinculum fidei* may well subsist without them.

So far for the main point in the case,—the validity or invalidity of a marriage contracted *per verba de praesenti* only. It will be remembered that Mr. Holmes relied also on a second line of proof, namely, that even if the presence of a clergyman were necessary for the validity of a marriage, the presence of a Presbyterian clergyman would be sufficient.<sup>2</sup> This part of the case, however, need not detain us here. It became of comparatively little importance as the case went on.

The case having thus been opened for the Crown, the case for the prisoner, Millis, was opened by Mr. Whiteside.

He addressed himself, in the first place,<sup>3</sup> to the second proposition put forward by Mr. Holmes, the consideration of which, as has now just been remarked, need not detain us.

The main point to be decided in the case was whether the presence of a clergyman is essential to the validity of a marriage. As to this, Mr. Whiteside's argument, as sketched in outline by himself, was, that, from the beginning, it was the practice of all Christian countries to treat marriage as a religious ceremony, for the due celebration of which the presence of a priest was required ; that not only was this a matter of practice, but that it was laid down by many writers of authority, and was even enacted by positive laws, that a priest should be present to bless the marriage ; that this was so in England from an early time, when the common

<sup>1</sup> In *Lindo v. Belisario*, 1 Haggard, 231.

<sup>2</sup> *Report*, etc., pp. 7, 35-44.

<sup>3</sup> *Ibid.* pp. 44-62.

law was as yet only being formed ; and that, as shown by many decisions of judges, and statements of the law by jurists, the common law of England has always denied the consequences of lawful marriage to such contracts of marriage as were not celebrated by a priest.

In illustration of his general statement that it was the practice of the Church from an early time ' to treat marriage as a religious ceremony, to be celebrated by a priest with sacerdotal benediction,' Mr. Whiteside referred to the detailed form of marriage ceremony set forth in Martene's erudite work, *De Antiquis Ecclesiae Ritibus*, from a missal in use in the diocese of Rennes in France in the beginning of the eighth century. This was but a specimen. Similar ritual books could be adduced in abundance.<sup>1</sup>

Then as to the statements of writers of authority, Mr. Whiteside referred especially to Bingham's *Antiquities of the Christian Church*, where several ancient writers are referred to in proof of the practice of the early Christian Church in this particular. Thus, for instance, Gothofredus, the commentator on the Theodosian code, is cited as proving from the writings of Saints Ambrose, Ignatius, and Gregory Nazianzen, and from the Fourth Council of Carthage, ' that it was the practice of the Christian Church in the earliest times to have their marriages celebrated by a priest.'<sup>2</sup>

Even papal authority could be invoked. As to this, Mr. Whiteside referred to a well-known work of recognized authority, Ayliffe's *Parergon Juris Canonici Anglicani*, the learned author of which cites a letter of St. Evaristus, who was Pope at the end of the first, and beginning of the second, century :—

Pope Evaristus writing to the African Bishops says that marriage ought not to be contracted in a clandestine manner, for marriage, he says, is not otherwise lawful but when the wife is demanded of such persons as seem to have the government and dominion over the woman's person ; . . . and unless she . . . likewise at the time of her nuptials receives the sacerdotal

<sup>1</sup> *Report*, etc., pp. 63-65.

<sup>2</sup> *Ib.d.* pp. 65-67.



benediction according to custom, . . . such marriage is deemed unlawful by the canon law.

And this was the ancient way of celebrating legal marriages in the Church, for otherwise they were styled only *conjugia præsumpta*, and not lawful marriages, and by that law are rather termed *adulteria*, *stupra*, and *contubernia* than lawful marriages. 'Let no believer or Christian . . . presume to celebrate wedlock in private, but let him publicly celebrate marriage in the Lord, receiving the benediction of the priest,' says the text of that law.<sup>1</sup>

Then, as to positive enactments on the subject, Mr. Whiteside referred especially to two of early date.

Going back to the Anglo-Saxon period, he found amongst the laws of King Edmund (A.D. 940-946) one on marriage, the eighth article of which is translated into English as follows, in the collection published by the Record Commission in 1800: 'At the nuptials *there shall be a mass-priest* [maesse-preost] *by law*; who shall, with God's blessing, bind their union to all posterity.'<sup>2</sup>

The other enactment referred to by Mr. Whiteside was a decree of a council held at Winchester under Lanfranc, in 1076:—

Praeterea statutum est ut nullus filiam suam vel cognatam det alicui absque benedictione sacerdotali; si aliter fecerit, non ut legitimum conjugium, sed ut *fornicatorium* judicabitur.<sup>3</sup>

He then proceeded to quote a number of statements of the common law by English jurists, and he also referred to a number of decided cases, in which, he maintained, it appeared from the reports that the validity or invalidity of a marriage was treated as altogether depending upon whether the marriage was, or was not, entered into in the presence of a priest.<sup>4</sup>

<sup>1</sup> Ayliffe, *Parergon*, 404. See *Report*, etc., pp. 63, 64.

<sup>2</sup> 'Posterity' is a manifest misprint for 'prosperity.' The Anglo-Saxon word is '*gesundfulnesse*.'

In Wilkins' *Concilia* (p. 217) the passage is given in Latin as follows: 'Nuptiis presbyter intersit, qui de jure cum Dei benedictione eorum conjunctionem adunare debet *in omni felicitatis plenitudine*.' The phrase is translated in the same way in an otherwise slightly different translation in Wilkins' *Laws of the Saxons*.

<sup>3</sup> *Report*, etc., pp. 70-73.

<sup>4</sup> *Ibid.* pp. 73-85.

Another point to which Mr. Whiteside attached much importance, and upon which he dwelt at considerable length, was that, as he expressed it, 'the common law, as well as the ecclesiastical law of England, always denied the consequences of lawful wedlock to such contracts of matrimony as were not celebrated by a priest.'<sup>1</sup>

The 'consequences' of lawful wedlock that he dealt with were these three: legitimization of issue, the husband's property in the wife's goods,<sup>2</sup> and the wife's right of dower<sup>3</sup> in the husband's lands.

In proof that these consequences of marriage were not recognized in English law as resulting from marriages other than those celebrated by a priest, he quoted many authorities. Upon Swinburne, an ecclesiastical judge of great eminence,<sup>4</sup> from whose work on *Spousals* he quoted at considerable length, he placed special reliance. Swinburne states distinctly that, where a marriage is contracted by 'spousals *de praesenti*, without the presence of a priest, the issue is not legitimate, nor is it made legitimate by the parents subsequently marrying "in the face of the Church." ' Again, speaking of a man and a woman married only by 'spousals *de praesenti*,' Swinburne says that such espousals do not make 'her goods his, nor his goods hers,' so that, 'dying before the celebration of the marriage, she may make her testament and dispose of all her goods at her own pleasure.' As to the woman's right to dower, if the man dies before the celebration of the marriage, 'she cannot,' says Swinburne, 'have any dower of his lands.'<sup>5</sup>

'Swinburne himself,' said Mr. Whiteside, 'is a writer of great authority, and he refers in the margin to authorities in support of all his positions. What do they prove? They

<sup>1</sup> *Report*, etc., p. 63.

<sup>2</sup> Before the Married Women's Property Act of 1882, when a woman owning property married,—unless the husband's common-law rights were barred by a settlement in the wife's favour,—he immediately became entitled to very large interests in her property, both personal and real.

<sup>3</sup> See p. 460, footnote 2.

<sup>4</sup> Swinburne was Judge of the Prerogative Court of the Archbishop of York.

<sup>5</sup> *Report*, etc., pp. 97, 98.

show that where the union consisted merely of marriage contract, without solemnization, . . . such was not by the law of England lawful matrimony.

‘None of the consequences of lawful matrimony ensued. The children were not legitimate; the woman was not entitled to dower; the man was not entitled to the chattels of the woman, who is not his married wife. . . .’

‘Now, what consequences did a contract of marriage, whether *per verba de praesenti* or not . . . draw after it by the common law of England? None.’<sup>1</sup>

Mr. Whiteside based a further argument upon an Act of 1818 (58 George III. c. 81). This Act extended to Ireland a provision of the English Marriage Act of 1753, which prohibited the taking of proceedings in any ecclesiastical court to compel the celebration of a marriage *in facie ecclesiae* ‘by reason of any contract of matrimony whatsoever whether *per verba de praesenti* or *per verba de futuro*.’

Previous to the enactment of this statute, either of the parties to a marriage contract made *per verba de praesenti* could obtain from an ecclesiastical court in Ireland a decree for the solemnization of the marriage *in facie ecclesiae*. And the obtaining of such decrees would seem not to have been of very rare occurrence. Now, asked Mr. Whiteside, what was the use of the enactment of a provision prohibiting proceedings to compel the celebration of marriage by reason of such a contract, ‘if,’ as he put it, ‘such a contract is, without celebration, an actual marriage?’<sup>2</sup>

A further view, put forward during the proceedings, as to the bearing of this Act of George III. upon the Millis case, will be mentioned as we proceed.<sup>3</sup>

The authority of Lord Stowell, so strongly relied upon

<sup>1</sup> See *Report*, etc., pp. 99, 100. Upon all this, see *ibid.* pp. 85-109.

<sup>2</sup> *Ibid.* p. 110.

<sup>3</sup> See p. 474.



by Mr. Holmes,<sup>1</sup> presented no difficulty to Mr. Whiteside. 'However great,' he said, Lord Stowell's 'fame as scholar, and his reputation as a Judge, they cannot add the weight of law to extra-judicial *dicta*, inapplicable to the facts of the case in which they were thrown out.'<sup>2</sup>

Neither was he troubled much by the argument drawn by Mr. Holmes from the fact that the marriages of Quakers and Jews were valid, though entered into without the presence of any minister of religion in the one case, or of any minister of the Christian religion in the other.

As to the marriages of Quakers, at all events in Ireland, they were valid, he said, by the Dissenters' Marriages Act already mentioned,<sup>3</sup> for there is statutory authority for classing them as 'Protestants Dissenters.' And as to the Jews, 'they have always been considered as foreigners, and the validity of a Jewish marriage is triable by evidence of the laws of the Jews, as in cases of foreign marriages.'<sup>4</sup>

In the remainder of his argument, Mr. Whiteside referred to various legal writers and to Acts of the Imperial and Irish Parliaments as showing that 'it was at all times the view of the legislature that marriage, by the common law, was a religious ceremony to be celebrated by a priest in holy orders.'<sup>5</sup>



Thus, for instance, there was the Irish statute of Anne (8 Anne, c. 3, s. 26, Ir.), which inflicted heavy penalties upon any 'popish priest' convicted of celebrating the marriage of persons either of whom he knows to be of the Protestant religion. 'If,' argued Mr. Whiteside, 'the presence of a priest was unnecessary for the celebration of marriage, why was it necessary thus to heap penalty upon penalty, for the purpose of preventing celebration of marriages by priests?'<sup>6</sup>

Similarly he referred to the statute, 12 Geo. I. c. 3, Ir., enacted *inter alia* to prevent marriages 'by degraded

<sup>1</sup> See p. 456.

<sup>2</sup> See *Report*, etc., pp. 110-116.

<sup>3</sup> See p. 451.

<sup>4</sup> See *Report*, etc., p. 123

<sup>5</sup> *Ibid.* pp. 116-149.

<sup>6</sup> *Ibid.* pp. 134, 135.

clergymen and popish priests,' and to several other such statutes, drawing, in each case, the inference that such legislation would have been wholly superfluous if marriage could be legally contracted by the parties themselves without having recourse to any clergyman.<sup>1</sup>

The general line of argument at each side having now been sufficiently indicated, it is unnecessary to refer in detail to the arguments of the two counsel who followed.

These were, Mr. T. B. C. Smith for the prisoner, and the Attorney-General for the Crown. They, of course, developed the arguments of Mr. Holmes and Mr. Whiteside, by whom the case had been opened, and they further illustrated the various points that had been made. But, for the purposes of a summary statement such as this, their arguments may be taken, as, in substance, identical respectively with the argument of Mr. Holmes at the one side, and with that of Mr. Whiteside at the other.

Next in order came the judgments of the four Judges of the Court. Inasmuch, however, as many of the questions that were raised in the course of the argument were to a large extent questions of canon law, or were inseparably mixed up with questions of canon law, it may be permissible here to offer a few observations upon those points that seem in this respect to stand out with greatest prominence.

The fundamental principle of Mr. Holmes's argument was, that, until 1753, marriages in England were regulated by the canon law as it had stood before the legislation of the Council of Trent, and that, in Ireland,—which was unaffected by the English Marriage Act of 1753,—marriages continued to be regulated by the canon law as before. This is a view of the matter, which, stated in this way without modification, does not naturally commend itself to English lawyers. But it would seem be no longer open even to

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<sup>1</sup> *Report*, etc., pp. 135-147.

serious question since the publication of Dr. F. W. Maitland's masterly essays on the binding authority of the Canon Law in reference to marriage in England.<sup>1</sup>

Mr. Whiteside's voluminous argument presents much more abundant material for comment.

First of all, his elaborate proof that 'from the earliest times of the Christian Church, marriage was a religious ceremony of that Church,' and that it has been the universal practice of all Christian countries to treat marriage as a religious ceremony, 'for the due celebration of which the presence of a priest was always required,' is surely irrelevant to the matter in hand. There is a very obvious difference between treating marriage as a religious rite, and decreeing by law that if not solemnized as a religious rite, it is null and void; as there is a no less obvious difference between requiring the presence of a priest for the 'due' celebration of a marriage, and requiring the presence of a priest at a marriage as an essential condition of validity.

The Council of Trent points out the distinction with unmistakable clearness. From the date of the publication of the five books of the Decretals, A.D. 1234, down to the time of the Council, nothing more was required by canon law for the validity of a marriage between a man and woman competent to marry, than their consent expressed *per verba de praesenti*. It would seem, however, that, clearly as this was laid down in one of the Decretals,<sup>2</sup> there were some who came to hold that marriages thus entered into were invalid. And, on the other hand, some seemed to have inferred from the Decretal that such marriages were not only valid, but lawful. Both these erroneous views were condemned by the Council, which declared in emphatic language that such marriages were valid, but that, though valid, they were unlawful. The words of

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<sup>1</sup> *Roman Canon Law in the Church of England*: six Essays by Frederic William Maitland, M.A., LL.D., Downing Professor of the Laws of England in the University of Cambridge. London, 1898.

<sup>2</sup> Lib. 4, Decretal. t. i. c. 33.



the Council express this as plainly as it could be expressed :—

*Tametsi dubitandum non est clandestina matrimonia libero contrahentium consensu facta, rata et vera esse matrimonia, quamdiu Ecclesia ea irrita non fecit ; et proinde jure damnandi sint illi, ut eos sancta Synodus anathemate damnat, qui ea vera ac rata esse negant ; nihilominus sancta Dei Ecclesia ex justissimis causis illa semper detestata est atque prohibuit.*<sup>1</sup>

As to the argument based by Mr. Whiteside on the 'letter of Pope St. Evaristus' to the African Bishops,—a letter frequently referred to throughout the Millis case, both in the Irish Court of Queen's Bench and in the House of Lords,—it does not seem to have been noticed by anyone concerned in the case that the letter referred to is one that had long been universally recognized by scholars as a forgery. It is, in fact, one of the well-known 'False Decretals,' so famous in ecclesiastical history and in the history of the canon law.

But, overlooking that point, and taking the document as if it were genuine,—for, after all, it is of fair antiquity, going back to the middle of the ninth century,<sup>2</sup>—we find that it deals only with what is required for the lawful celebration of marriage. It nowhere states that without the presence of a priest a marriage will be invalid.

From the translation of this letter given in Ayliffe's *Parergon*, and relied on by Mr. Whiteside, it would indeed appear that the writer of the letter spoke of such marriages as invalid. Ayliffe, as we have already seen, gives it thus :—

And this was the ancient way of celebrating legal marriages in the Church, for otherwise they were styled only *conjugia præsumpta*, and not lawful marriages ; and by that law are rather termed *adulteria*, *stupra*, and *contubernia*, than lawful marriages.<sup>3</sup>

<sup>1</sup> Concil. Trid., Sess. 24, *De reform. Matrimonii*, cap. i.

<sup>2</sup> A good account of the False Decretals and their authorship will be found in the *Catholic Encyclopædia* (London and New York), vol. v. pp. 773-780.

<sup>3</sup> *Report*, etc., pp. 63, 64.

But the document, so far from stating this, states the very opposite. It does not say that such marriages are '*praesumpta conjugia*.' It says distinctly that they are not.

The words of the letter as inserted in the *Decretum Gratiani* are : 'Ita peracta [servatis scil. omnibus in jure requisitis] legitima scitote esse connubia ; aliter vero *praesumpta* non conjugia, sed adulteria, vel contubernia, vel stupra, . . . potius quam legitima conjugia esse, non dubitate.'<sup>1</sup>

The author of the translation given by Ayliffe simply missed the point of this. What the document says is, that marriages entered into without the prescribed forms are 'presumed' to be, not *conjugia*, but *adulteria*, etc. ; that is to say, in other words, if people choose to marry without the forms prescribed for the due celebration of marriage, *the burden of proof must rest with them* if they seek to have their marriage recognized as valid in the courts of law.<sup>2</sup>

Then, as to the Saxon law relied upon by Mr. Whiteside, it, for the reason already mentioned, proves nothing. That law merely prescribes that a mass-priest shall be present at the marriage and shall bless it. But in no way enacts, or even suggests, that, if contracted without the presence of a priest, the marriage will be void.

The decree of the Council of Winchester goes, no doubt, a step farther. Its terms imply that unless the marriage is blessed by a priest it will be invalid, for the words are '*si aliter fecerit, non ut legitimum conjugium, sed ut fornicatorium judicabitur.*'

But this solitary scrap of evidence of the invalidity of a marriage not blessed by a priest could create no difficulty except to persons who start from the gratuitous and

<sup>1</sup> Decr. p. 2, C. xxx. q. 5, c. i.

<sup>2</sup> This is the teaching of the canonists. Thus, Reiffenstuel, speaking of the case in which another marriage is subsequently contracted by the husband or wife already married clandestinely, says : 'Licet enim matrimonia summe clandestina, et nemine praesente contracta, coram Deo fuerit valida, tamen in Foro requirebatur probatio ; . . . consequenter si unus vel uterque negabat, et probatio alia defecerat, in Foro externo impuniti discedebant, etsi summe rei coram Deo.' In lib. 4, Decr. t. 3, § 1, n. 54.

altogether erroneous assumption, or series of assumptions, that in the eleventh century the marriage law of England was uniform throughout the kingdom; that it was uniform on the line indicated by the statute of the local Winchester synod of 1076; and that it so continued down to modern times.

Was, then, the law of the Church as to the effect of a contract entered into merely *per verba de praesenti*, without the presence of a priest, at all uniform at the time of Lanfranc's synod of Winchester? Or was it uniform before the publication, by Gregory IX., of the five books of the Decretals in 1234?

In 1234, undoubtedly,—a century and a half later than Lanfranc's synod of 1076,—the marriage law of the Church became uniform. But upon what line? Not surely upon that of the decree of Winchester, but upon the diametrically opposite line,—that a marriage entered into simply *per verba de praesenti* was valid; and that it was valid in the strictest sense of the word, namely, that it rendered null and void any subsequent marriage which either of the parties, during the lifetime of the other, might seek to enter into, whether with the blessing of a priest or not.<sup>1</sup> There is no reason whatever to suppose that the law of the Church on the point in question was in any way uniform on that, or any other line, at the earlier date.<sup>2</sup>

One other point of Mr. Whiteside's argument may be noticed here. He relied strongly on the authority of Swinburne,<sup>3</sup> from whose treatise on *Spousals* he quoted many passages as supporting the proposition that 'none of the consequences of lawful marriage' followed from a

<sup>1</sup> Lib. 4, Decretal. t. 1, c. 31.

<sup>2</sup> Benedict XIV. (*De Synodo Dioecessana*, Lib. viii. cap. 12, nn. 1-7) gives an interesting account of the discussion at the Council of Trent as to whether marriages entered into without the presence of a priest had at any previous time been declared invalid. He concludes his narrative thus: 'Tandem deliberatum [est] ut matrimonia clandestina, sive ullo unquam tempore fuerit antea invalida sive non, quod dubium profecto atque incertum remansit, . . . deliberatum (inquam) est, ut invalida in posterum decernerentur' (ib. n. 7).

<sup>3</sup> See p. 464.



contract entered into without the presence of a priest. But Swinburne plainly says nothing of the kind. He is not speaking of all the consequences of lawful marriage. He does not say that 'none' of those consequences follow from such a marriage.

There are consequences and consequences. Swinburne is speaking of only some of the consequences. There are some that flow from the very nature of marriage as it exists in the New Law,—as, for instance, that the union is, in the sense of our Lord's words, indissoluble; that any subsequent marriage contract *de praesenti* attempted to be made during the lifetime of the husband and of the wife will be set aside as void; and so forth.

There are other consequences of marriage which are the creation only of human law. Thus, by the law of England, certain rights affecting the ownership or administration of property have from the earliest times been attached to marriages duly celebrated 'in facie ecclesiae.' The State, of course, is fully competent either to attach those rights to marriage, or not to do so, or to attach them to marriages entered into in one particular way, and not to marriages entered into in another way.

The rights that Swinburne speaks of are rights of this second class. He does not speak even of all such rights. But of those that he speaks of,—legitimation of issue, the husband's right to the wife's goods, and the wife's right to dower,<sup>1</sup>—he notes that these are not attached by English law to marriages that are entered into merely *per verba de praesenti* between the parties.

Did he mean by this to imply that such marriages were not valid marriages? So far was he from conveying anything of the kind that he expressly states the contrary, and states it in the most distinct possible terms. For he says that 'they which do contract spousals *de praesenti*' are 'very husband and wife, in respect of the knot or bond of matrimony.'<sup>2</sup>

<sup>1</sup> As to these, see p. 460, footnote 2, and p. 464, footnote 2.

<sup>2</sup> *Report*, etc., p. 97.

The arguments relied upon, whether by Mr. Holmes or by Mr. Whiteside, in reference to marriages of the Society of Friends, or of Jews, can more conveniently be considered in connexion with the judgments delivered in the House of Lords.

As to the various statutes relied upon by Mr. Whiteside towards the close of his argument,<sup>1</sup> it must not be overlooked that there were various reasons why persons about to marry should shrink from entering upon the duties and responsibilities of their married life, not only without the blessing of the Church, but in open opposition to the law of the Church, with nothing more than a mutual expression of their consent to live together as husband and wife. Besides, apart from all religious considerations, would there not be a natural desire to secure those temporal advantages, which, as we have seen,<sup>2</sup> they could not, under the common law, secure unless they were married in presence of a clergyman?

We may now pass on to the judgments of the four Judges. On the main question to be decided, that is, whether judgment should be given for the Crown or for the prisoner, the Court was evenly divided.

Mr. Justice Perrin, who, as the junior member of the Court, was the first to give judgment, held that by the common law of England and Ireland,—which, of course, as regards Ireland, was unaffected by the English Marriage Act of 1753,—the consent of the parties expressed *per verba de praesenti* was sufficient to constitute a legally valid marriage; that the marriage of Millis with Hester Graham being therefore legally valid, he was guilty of bigamy; and that judgment should be given for the Crown.<sup>3</sup>

Mr. Justice Crampton, who followed, arrived at the same conclusion, but in a different way. He held that the presence of a clergyman was essential to the validity of a marriage, but that the presence of a Presbyterian clergyman was sufficient. Thus, in his view also, Millis was validly married to Hester Graham, and he agreed with Mr. Justice Perrin that judgment should be given for the Crown.<sup>4</sup>

<sup>1</sup> See pp. 466, 467.

<sup>2</sup> See p. 464.

<sup>3</sup> *Report*, etc., pp. 220-257.

<sup>4</sup> *Ibid.* pp. 258-302.

Mr. Justice Burton held, with Mr. Justice Crampton, that there could not be a valid marriage without the presence of a clergyman, but, differing from him, held that the clergyman should be one by episcopal ordination.

This might seem to lead at once to the conclusion that, as the marriage of Millis and Hester Graham was not a legal marriage, judgment should be given for Millis as not guilty of bigamy. But Mr. Justice Burton raised a further point. Might not the marriage, though not legally valid in the sense that it carried with it certain civil rights attaching to marriage,<sup>1</sup> still be sufficient for some purposes, as, for instance, to sustain an indictment for bigamy? He considered, however, that, at any time, such an indictment would have been open to grave legal objection, but that, without any doubt, since the enactment of the statute of George III. already referred to,<sup>2</sup> the indictment would be bad. In his opinion, the operation of that statute was 'to make a mere contract of matrimony, without solemnization, wholly ineffectual as a marriage.'<sup>3</sup> Thus he held that judgment should be given for Millis.

The Chief Justice agreed with Mr. Justice Burton that the presence of a clergyman was essential to the validity of a marriage, and that the clergyman should be one ordained by a Bishop. In his view, then, Millis had not been validly married to Hester Graham, and so was not guilty of bigamy, and judgment should be given in his favour.<sup>4</sup>

Thus, on the question whether judgment should be given for the Crown or for the prisoner, the Court was evenly divided. But, as a note appended to the printed report of the case goes on to state:—

Mr. Justice Perrin afterwards stated that as it was of importance that the questions raised in these cases<sup>5</sup> should be

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<sup>1</sup> It should be here noted that Mr. Justice Burton held that it was 'questionable' whether the issue of such a marriage was not legitimate. See *Report*, etc., p. 312.

<sup>2</sup> See p. 465.

<sup>3</sup> See *Report*, etc., pp. 313-315.

<sup>4</sup> *Ibid.* pp. 316-340.

<sup>5</sup> See p. 453, footnote 2.



finally determined, he would *pro forma* withdraw his judgment in order that the decision of the House of Lords might be obtained on them on a Writ of Error. There was, therefore, judgment for the prisoner.<sup>1</sup>

The case was then brought to the House of Lords. How it fared at the hands of that tribunal we shall see in the next number of the I. E. RECORD.

✠ W. J. W.

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<sup>1</sup> *Report, etc.*, p. 340.

## A NEGLECTED ADVERB; OR, PRIME A MORNING PRAYER

IT was not the wily Talleyrand, as some think, but simple-hearted Oliver Goldsmith, who said that language was given to us to conceal our thoughts.<sup>1</sup> One of the ways in which the principle is put into practice is the naming of books and articles. Writers seem often to be guided in their choice of names by a wish to be as ingeniously obscure as possible. This accounts for the first title of this paper as given above ; but in these pages such literary artifices would be unbecoming, and therefore I have hastened to add a more intelligible *alias*, and I may explain at once that the neglected adverb in question is 'saltem' in one of the rubrics of the Roman Missal.

The first sentence of the 'Ritus servandus in celebratione Missae' in the *Missale Romanum* contains this clause: 'saltem Matutino cum Laudibus absoluto.' The priest, before approaching the altar, is supposed to have finished Matins and Lauds *at least*. There are some who take very particular care to carry out this direction, and imagine that they are doing so with perfect exactness, but who, nevertheless, overlook the adverb 'saltem.' They act precisely as if the direction were expressed thus, 'Matutino cum Laudibus absoluto.' They make a point of having said Matins and Lauds before Mass ; but that is only the

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<sup>1</sup> I chance to have preserved this scrap of the *Saturday Review* of February 14, 1874, which makes the origin of this saying more complicated: 'Three well-known masters of English epigram have certainly approximated very closely to this most popular of witticisms. South gives it as a characteristic precept of the wisdom of this world that "speech was given to the ordinary sort of men, whereby to communicate their mind ; but wise men, whereby to conceal it." Young, in his second satire in the *Love of Fame*, speaks of the masquerade of court and town :—

"Where nature's end of language is declined

And men talk only to conceal the mind."

Goldsmith, in the *Bee*, works out the same antithesis very carefully, first quoting the general principle of grammarians, and then adding that, in the opinion of men who know the world, the true use of speech is not to express our wants, but to conceal them.'

*least* that is prescribed. To go beyond that 'least,' we should have said Prime in addition. If the rule were laid down at an examination that, in order to pass, the candidate should secure at least fifty per cent. of the total number of marks, no spirited candidate would be content with getting barely fifty marks out of the hundred. That little phrase 'at least' urges us to aim at something more. Thus it is said in an old treatise on Frequent Communion : ' Besides the penal law which is annexed to a neglect of the Easter duty, there is a directive precept of more frequent Communion which is virtually contained in the ampliative expression, "*at least*." ' In like manner that same 'ampliative expression,' where it is employed concerning the portion of the Divine Office which a priest is counselled to have said before Mass, implies a wish on the part of the Church, as far as she speaks through this authorized instruction on the manner of celebrating Mass, that the priest should even have said something more than Matins and Lauds before approaching the altar. That 'something more' must necessarily be Prime, or must include Prime.

Let me first, however, dwell a little on the expediency of saying Matins and Lauds overnight. Some famous American attributed his success in life to this principle which he had striven to follow, 'Always do the hard thing first.' A certain duty must be done : you will not gain but lose by putting it off. Do it at once. Yet I have known some excellent men who, instead of anticipating the time for the recital of the Divine Office, left it off habitually till near the close of the appointed time. Surely the opposite policy is wiser and better. There is a comfort and strength in thinking that you have made sure of so much of your bounden duty.

Dr. Murray, of Maynooth, told me that his invariable habit of saying the Office as early as possible dated from the time when he was a curate in Francis Street, Dublin, and was preparing to compete for a chair at Maynooth. When he had the Office for the day finished, and even Matins and Lauds for the morrow, he could then apply himself



to his theological treatises with an easy conscience, and without any fear of forgetting himself and being caught by the midnight chimes with any part of that sacred obligation unfulfilled. This policy he carried out till the end. During his weekly visit of some hours to Dublin on Wednesdays, the whole of which would seem little enough for all the persons he had to visit and all the books he had to buy or to look at, he might be seen in the interior of M. H. Gill and Son's establishment at 50 Upper O'Connell Street reading the next day's Matins before starting to catch the train that would bear him back to his beloved College home. He would not wait for the enforced leisure of the railway carriage, perhaps for reasons similar to those of one of Cardinal Logue's predecessors in the remote pre-railway times—of whom I have read somewhere that, before starting on one of his episcopal journeys in his very humble carriage, he would read his Breviary on his knees (in his cottage, I think, at Ballymascanlon), not leaving it to be read amid the distractions of his drive.

The same bigoted punctuality and more than punctuality has been practised for half a century by two dignitaries of the Irish Church—yes, I may call them both dignitaries, though one of them is precluded from ecclesiastical dignities by his vocation, but he is as nearly a dignitary as his vocation would allow. These two dignitaries from different parts of Ireland have the same baptismal name and surname; and they have persistently practised the same scrupulous fidelity in using the privilege of anticipating the morrow's Matins and Lauds as early as possible. One of them told me that his confessor at Maynooth, Dr. Edmund O'Reilly, afterwards Father O'Reilly, S.J., advised him to try and have always Matins and Lauds for next day said before dinner. 'If I had carried out every point as carefully as this, I should be a saint. I have hardly gone to bed with Matins unsaid thirty times in thirty years'—nor, I am sure, in the 'twenty golden years' that have since gone by.

The other dignitary (who is dead since I dragged him into this context) carried this policy still further. He told

me that he had hardly failed six times in having Matins and Lauds for next day finished before dinner ; and that generally he came in from his parochial visiting, etc., immediately after two o'clock to say this portion of the Divine Office.

Two other examples of this sort have lately come under my notice. In the *Downside Review* for Easter, 1905, Dom Leo Almond describes the vast amount of work that the late Abbot Snow crushed into one day ; and then he goes on to explain how he managed it. ' To comply with so full a programme of occupation nothing but strict method could serve. Abbot Snow was never behindhand in his duties. Matins and Lauds he said overnight, and no stress of business was allowed to interfere with this, though it led him at times into the early hours of the morning.'

Some who are now circumstanced somewhat similarly may be interested in hearing the theory and practice of an excellent P.P. of my acquaintance. At an early stage of his priestly career he had to say Mass at 10 o'clock all the days of the week. He made it a rule to finish the whole Office of the day before Mass ; for (said he) there was a good, substantial quasi-duty to have Matins and Lauds said overnight, and, with sick calls and other work and distractions, he could not make sure of this if he left Vespers and Compline till the evening.

The Rev. George Angus, in one of his pleasant autobiographical papers in the *Tablet* (July 28, 1902), has a curious passage about the recitation of the Breviary :—

There are two ways of saying Office : it may be *officium dictum* or *officium dicendum*. I prefer and practise the former. I recollect Andrew Lang being much astonished at hearing from me one afternoon that I had just said Matins and Lauds of the morrow. I had to explain to him what a friend of mine calls the ' baneful custom ' of anticipation.

No, it is not a ' baneful custom ' but a blessed custom, for which I may cite another authority in the example of one of the most distinguished Bishops of France in the last century, Felix Dupanloup, Bishop of Orleans. In Lady

Herbert's translation of his 'Life' (vol. ii., page 462) we read :—

The saying of the Little Hours in his Breviary followed his thanksgiving after Mass ; for he had the fixed habit (suggested to him first by Monseigneur Borderies) of always saying Matins and Lauds the evening before, as soon as the liturgical hour permitted it. Then he set to work and continued at it without interruption till twelve o'clock. These five hours were what he called the cream of the day. 'Never look at a newspaper till twelve o'clock,' he would say.

Happy the priest who, to guard against sloth and other human frailties and to make sure of many advantages, turns a mere privilege into an inviolable custom by saying the Matins and Lauds of each day during the evening of its eve. If such a man were summoned out of life before the dawning of the day for which he had thus forestalled this *divinum officium*, this 'divine duty' of prayer and praise, would not this be a good omen to bring to the judgment seat of our Lord? May I put my recommendation on a much lower ground and say that such a man would never feel so uncomfortable as a certain curate who, playing cards after supper at a little clerical party, was observed to be distracted and not 'minding his hand.' 'To tell you the truth,' he said, 'I was watching the clock, for I have not said Vespers and Compline.' An old P.P. turned to him sternly : 'Take my advice, young man, and never leave your business with Almighty God till after dinner.'

But it is time now to go back to our 'neglected adverb.' Has not that adverb often, and perhaps always, been neglected and overlooked, even by those who were scrupulously exact in saying Matins and Lauds overnight, and who would not willingly fail in one jot or tittle of what is in any way prescribed by the Church? As I have already remarked, have they not acted precisely as if the Church's direction were 'Matutino cum Laudibus absoluto,' whereas this clause is preceded by 'saltem'? When so much *at least* is required, something more is expected or desired. The spirit of this rubric supposes us to have said Prime also before Mass.



On this point, likewise, I am able to bring forward dignified testimony—an Archdeacon and a Cardinal. Driving to a funeral with Archdeacon MacMahon, formerly parish priest of St. Michan's, Dublin, I learned from him that the point I wish now to establish—the expediency of making Prime our morning prayer or part of our morning prayer—was urged very strongly by Father Harbison, C.S.S.R., in a Retreat given to the priests of the diocese of Dublin. Dr. Conroy (then the Cardinal's secretary, afterwards Bishop of Ardagh, who died when Apostolic Delegate to Canada in the middle of a great career) told the Archdeacon that Cardinal Cullen took up this suggestion eagerly, and was faithful to the practice till the end.

There are few things to which the old saying, 'What is worth doing is worth doing well,' is more emphatically applicable than the recitation of the Divine Office. The Mass and Office—these two duties properly performed will sanctify a priest. In saying this I am only quoting St. Leonard of Port Maurice, who, when a young priest asked him for a rule of life, replied: 'Say your Mass and your Office well.'

The care and devotion that the Divine Office claims as its due will not make this duty more burdensome, but, on the contrary, much less of a burden. In the long run it takes less time and trouble to do a thing well than to do it badly. Honesty is the best policy, especially honesty with our own souls and with God. Distractions, carelessness, undue haste, lose time instead of saving it; and, even if it were not so, we must be determined to make our prayer real prayer. What a pity to have all the trouble and so little of the profit! Van der Velden, in his excellent *Theologia Moralis*, says most truly: 'Turpissime illi errant qui preces quasdam ex merâ devotione summâ curâ et spiritus intensione persolvunt, horas autem cursim et aridâ consuetudine sine spiritu, sine mente, verissimé *recitant*.' Against such persons that ancient ecclesiastical chestnut was flung—the story about the two priests who were saying the Divine Office as they walked along the road. Suddenly a thunderstorm came on, and one of the priests cried out in

his fright, 'Let us give this up and take to our prayers.' As if the Divine Office was not the best of prayers! God forgive some of us for the manner in which we have sometimes discharged this 'divine duty' since we procured our first Breviary in preparation for subdeaconship. Those who insist on getting a suitable time for the thoughtful reading of the daily Office find it generally a pleasant exercise of piety, or at least the least monotonous form of prayer. They come to agree with Lessius, who called the Breviary 'admirabile mysteriorum sacrae scripturae compendium.'

A great help towards the proper recitation of the Office would be the habit of saying Prime precisely and expressly as morning prayer. Yet I do not remember to have seen this point of having Prime said before Mass referred to anywhere except at page 80 of the second volume of Father Schouppe's *Meditationes Sacerdotales Clero tum saeculari tum regulari accommodatae*: 'Ad hanc [nempe, ad praeparationem ante Missam] pertinet recitasse Matutinum et Laudes, et, si commode fieri potest, etiam primam Horarum.' This will be an additional inducement to fidelity in the habit of saying Matins and Lauds overnight.

Perhaps that point has now been emphasized sufficiently, and we may give the rest of our space to some remarks about certain parts of Prime considered in the light in which we wish it to be regarded. But two testimonies or admonitions of a very different kind about the Divine Office may be set down first.

Mr. Montgomery Carmichael, British Consul at Leghorn (as we curiously call Livorno), is a convert who, beside other admirable literary work, has done much for the glory of St. Francis of Assisi. One of his books is a delicate romance which pretends to be a real biography, *The Life of John William Walshe, F.S.A.* This fictitious Mr. Walshe tells us that his father, a layman, recited daily the whole Office of the Church:—

His skill in liturgical science made this task easy; his devout imagination found new beauties in it every day. The Divine Office readily wearies the languid and the lukewarm; the devout and the ascetic find in it every day a fresh incentive to devotion.

The more they repeat it, the better they like it ; for after all it is composed almost entirely of God's word, and he who should find God's word wearisome stands self-condemned of his own folly and emptiness ; the palate of the God-given part of him has lost all savour of celestial sweetness.

How terribly scandalized such a layman as this would be if he knew the spirit and the manner in which some of us have often discharged 'this divine duty' ! Is that 'galloping whisper' the recitation of the *Divinum Officium*, by one of God's ministers acting as the representative of His Church in the name of all the faithful ?

From Mr. Montgomery Carmichael I go back abruptly to Claudius Aquaviva, the fourth and the greatest of the successors of St. Ignatius as General of the Society of Jesus. Just three hundred years ago (1612) he addressed to the Provincials of the Society a letter, *De Divini Officii Recitatione et Celebratione Missae*. He begins by quoting Psalm xlv. 7 : 'Psallite Deo nostro . . . psallite sapienter,' urging the necessity which lies upon all priests of saying the Divine Office with special devotion and care—'nobis quos huic ministerio Ecclesia ita destinavit ut ipsius quasi nomine et creaturarum omnium quae id minime norunt aut possunt, praepotentem mundi effectorem laudemus Deum, pro cunctis exoremus, et coram Eo corda nostra pandamus.' These words involve a high idea of the dignity and worth of the Divine Office. The phrase 'pro cunctis exoremus' means not merely to pray for all, but to pray aloud in place of all. This obligation rests on all priests ; but Father Claudius goes on to urge that for those whom he was addressing it was especially necessary to use greater diligence in order to make up for what was lost of that reverence which choir and church and the association with others, and the external circumstances of time and place, secure. The Society of Jesus was the first religious Order exempted by the Holy See from the obligation of choir, without which exemption the special studies and special labours of its members would be impossible. This particular reason for extra care in saying Office devoutly holds good for our



hard-working parochial clergy, who must be in the world, though not of it.

Those who are fond of discovering traces of the Trinity everywhere may find another in the distribution of the twenty-four hours into eight divisions of three hours each for the purposes of the Divine Office. The three nocturns of Matins were assigned (at least theoretically and symbolically) to nine, midnight, and three o'clock at night; terce, sext, and none to nine, noon, and three o'clock in the day. Lauds and Vespers were fixed at six o'clock, morning and evening. Prime and Compline were added afterwards as a sort of more private morning and evening prayer. To bring these ten divisions under the shadow of the text, 'Septies in die laudem dixi tibi' (Ps. cxviii. 164), the three nocturns and lauds were treated as a single hour.<sup>1</sup>

At page 231 of the second volume of this periodical for the year 1906 will be found 'Hymni Horarum'—my attempt at a metrical, yet almost literal, translation of the hymns for the four Small Hours. In the hymn for Prime I committed a blunder which probably escaped notice except from the keen eye of my dear old friend of sixty-four years' standing, Father Malachy O'Callaghan, C.M., of Cork, who pointed out to me that in the third stanza I had mistaken *vecordia*, 'madness,' for *socordia*, 'sloth.'

May the heart's inmost depths be pure,  
And may we be from sloth secure.

The hymn is given as follows, with this mistake corrected, at page 48 of *A Soggarth's Last Verses* :—

The star of day has risen now :  
To God as suppliants let us bow,  
That in the doings of this day  
All that might harm be kept away.

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<sup>1</sup> See the *Tablet*, December 16, 1893, in a review of Thalhorer. The next verse of Psalm cxviii. after the above famous text was the text proposed for the trial sermon of a certain young lad at Newry, John Mitchel, when he thought of adopting his father's profession. 'Pax multa diligentibus legem tuam, et non est illis scandalum.' He never wrote the sermon on this gentle text, but chose a less peaceful career. He was transported for treason felony, wrote the *Jail Journal*, which deserves to be an English classic, and after many wanderings came home to die in Newry. He had many generous feelings. Most of his family, thank God, became Catholics with his full consent.

May God our tongue restrain and curb,  
 Lest horrid sounds of strife disturb;  
 And may He soothe and screen our eyes,  
 Lest earth's poor vanities surprise.

May the heart's inmost depths be pure,  
 From sin's insanity secure.  
 May pride of flesh be worn, subdued,  
 By frugal use of drink and food;

That so, when day has taken flight,  
 And order has led back the night,  
 We, pure through abstinence, may sing  
 Glory unto our heavenly King.

Glory to God the Father be!  
 Glory, co-equal Son, to Thee!  
 And to the Holy Ghost be praise  
 Now and through the eternal days.

Is it not well to make that distinctly and emphatically a morning prayer? Still more the central prayer of Prime, *Domine Deus omnipotens, qui ad principium hujus diei*, etc. One might sometimes very profitably apply to this and other parts of the Divine Office the second of St. Ignatius's Three Methods of Prayer, dwelling leisurely on each of the words one after the other, trying to feel their full force and meaning.

*Domine Deus omnipotens!*—'O Lord God Almighty!' We address our Lord and our God with lowly reverence, and we remind ourselves that He is all-powerful, and therefore can grant the petitions we are going to present to Him. *Qui ad principium hujus diei nos pervenire fecisti*—'O Lord God Almighty who hast made us,' not merely 'come to the beginning of this day,' but *pervenire*, come through so much and arrive safely at last. Even confining the expression to my own short span, not daring to think of the inconceivable course of the ages, the long series of events, through which God has conducted the order of created things before man was, and then the order of human things, in such a way as to make me and each individual soul of His human race now living *pervenire ad principium hujus diei*, arrive safely at the beginning of the little day of life—

in such a way that I am and for ever shall be one of His human creatures made to His likeness and for His service. How many of what we call accidents would have deprived me of my place in the history of God's dealings with mankind! One birth the less in a past generation, one death happening a little earlier, and I should never have been—my little link in the infinite chain would have dropped out. But God in His infinite wisdom and goodness and power has deigned to make me arrive safely at the beginning of this day. He brought me safe into His earthly world, a living soul, of whose existence, as of His own kingdom, *non erit finis*, there shall never be an end. And then through the successive days that make up this little day of mortal life, *nos pervenire fecisti*—through how many days, each full of its incidents and perils and graces, since I was a newborn infant, a child a month old, a year old, and so on through all the days of all the years till now. How many things happened, how many things might have happened, to me in my outer life and in the inner life of my soul! Through all these incidents and contingencies and possibilities and perils and graces God has brought me safe to the beginning of this day, to this morning hour when I am imploring Him to continue His mercy and His goodness towards me.

Yes, Thou hast brought us safe, O God, and, oh! keep us safe. *Tua nos hodie salva virtute*. Save us to-day by Thy power, by Thy omnipotent grace, that during this day we may fall into no sin. Whatever else may happen, no sin, no sin, in thought or word or deed. 'Thought' here has got the first place as it has in the *Confiteor* and in the ordinary phrase; but deliberate and responsible thought may well be placed second. The order followed in this prayer of Prime is the order followed by St. Ignatius in the fundamental truth of the *Exercitia Spiritualia*. 'Man has been created to praise, reverence, and serve the Lord his God.' We praise Him by our words, we reverence Him in our thoughts and feelings, we serve Him by our deeds. *Laudant angeli, adorant dominationes, tremunt potestates*. Here in the *Præfatio Communis* of the Mass there is the same sequence—



praise, adoration, and the obedience which trembles before the Divine Majesty, eager to show service and submission by following the slightest indication of God's will.

There seems to be a special significance in the expressions employed in consecrating our words at the beginning of the day, as apart from our thoughts and actions. *Nostra procedant eloquia*. Words are more directly under our personal control than much of what we think or even do. It lies with us to make our words 'proceed' in the right direction, 'to the doing of God's justice.' But our thoughts and many of our deeds are less under our control, suggested by external objects and persons around us. Our thoughts especially are beyond our power often, at least the beginnings of them; and we pray that these half-involuntary thoughts, and also all that we do, sometimes almost mechanically, 'may be directed to the doing of God's justice,' to the doing of God's will, which is always just and wise and good.

But I need not go further with my commentary on Prime, out of which a book might easily be made. There is another practice, good in itself, and useful as inducing us to say Prime the first thing in the morning as a direct, practical morning prayer; and this is to say Terce as part of our thanksgiving after Mass. It is part of the great 118th Psalm, with 'its overflowing and glorious passion of love for the law of God.'<sup>1</sup> Its hymn ought to be our daily act of homage to the Holy Ghost whom we too often neglect. From Acts ii. 15 it appears that the Holy Ghost descended about the third hour (our nine o'clock), and the hymn of Terce is a prayer to the Holy Ghost, changed to the *Veni Creator Spiritus* at Whitsuntide by a beautiful custom which is attributed to St. Hugh of Cluny in the eleventh century.

Now, Holy Spirit, who art one  
With God the Father, God the Son,  
Deign quickly here to come and rest,  
Poured out in graces o'er my breast.

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<sup>1</sup> John Ruskin.

May mouth and tongue, mind, senses, strength,  
 Sound forth confession true at length;  
 And may love's flame mount high and higher,  
 Till all around shall catch its fire.

Father of mercy, be it done!  
 Thou too, co-equal only Son!  
 Who with the Holy Ghost dost reign  
 In glory that shall never wane.

It may be objected that this paper, which insists that Prime ought to be said as morning prayer because it was meant to be so used, supposes, nevertheless, that Compline, which was intended for night prayer, must be said long before its time, since Matins may now be said after one o'clock in the day. This contradiction is partly excused by the fact that Compline has little of the night about it except its hymn, *Te lucis ante terminum*, and even this supposes the light of day to be still around us. It has little to make it the *Nunc dimittis* of another day of life, as it claims to be by repeating the little canticle of old Simeon. There is something far more *primary* about Prime than there is of *completion* about Completorium. It is very well indeed to fix in our minds the first word of Compline, the comprehensive little prayer with which it begins, and to repeat it when it is really appropriate—namely, when we are composing ourselves for our night's rest. *Noctem quietam et finem perfectum concedat nobis Dominus omnipotens*—‘May the Lord Almighty grant to us a quiet night and a perfect end.’ A quiet night—not the long, dreamless sleep of childhood, but at least a tranquil night, free from restlessness, disquiet, pain—enough of refreshment to fit us for to-morrow's work. And then the last request of all, ‘a perfect end.’ That is a bold request, a high ambition. ‘A perfect end.’ Ah! yes, *finis coronat opus*. May a perfect end crown for us the work of life! May God Almighty grant to each of us a perfect end, and from our last sleep may we wake up into Eternal Day!

MATTHEW RUSSELL, S.J.

## THE FIGHT FOR THE FAITH IN THE PRIMARY AND SECONDARY SCHOOLS OF FRANCE.— AN OBJECT LESSON

A WAR that has been raging for some years in France over the education of the children is now reaching its acutest stage. Parents and the representatives of the Church on the one side, the Government and the lay teachers on the other side : these are the opposing forces. In some places children have publicly burnt their school books ; in other places, expelled from the schools because they refused to read the class manuals, the scholars stand in the open play-ground, in the biting winter's cold, and sing ' Nous voulons Dieu.' Angry parents invade the schools, demanding redress from the teachers. In one case, when the children were re-admitted to the school and commanded to write ' I will obey my teacher,' each one inscribed in his essay book, ' J'obéirai á Dieu, mon Maître.' The Catholic press supports the children in their refusal to obey the teachers in such circumstances. In Normandy a Catholic Bishop, in presence of a large assemblage of parents and young people, decorated a boy twelve years of age with a medal of honour and, with all the affection of a fond father, embraced him, amidst the applause of the enthusiastic meeting, because he refused to obey his teacher. At Bonnecourt, in a crowded church, especially decorated for the occasion, the Bishop of Langres decorated several children with medals *d'honneur* at the altar rails, whilst the congregation sang the hymns ' Je suis Chrétien,' and ' Ils ne l'auront jamais, l'âme de nos enfants.' After the ceremony the children presented an address to the Bishop, and, affirming their loyalty to their Mother the Church, they declared : ' Your efforts shall not be in vain ; we will remain faithful to the Faith of our fathers ; children of Christians, like St. Sebastian, our glorious patron, we will die a double death rather than become renegades.' At La Hague a little girl refused to read a certain class book.



The teacher seized her hand, forced her to the black-board, and, whilst the unwilling little hand is compelled to write malignant words, she turns her head away that she may not see what the teacher writes by her hand.

What does it all mean? It means that the Catholic people of France are not going to allow the Faith of their Fathers to be torn from the hearts of their children before their very eyes.

The Bishops of France, the guardians of the Faith that comes from God, have sounded a cry of warning that has been caught up by that France which is still imbued with the spirit of religion. Bishops, priests, and leading representative laymen have entered into a solemn covenant to suffer any persecution, even death itself, rather than allow the Faith to be stamped out of the children in the State schools of France.

What has happened in the schools to cause all this commotion? God has been expelled from the State schools; His name has been blotted out of the text-books; it has been forbidden to be mentioned within the walls where young France receives its knowledge. And further, the very fundamental doctrines of Christian revealed religion are denied; books reeking with the rankest infidelity and heresies are put into the hands of Catholic children. The Church that has civilized the world, promoted virtue and learning, produced innumerable saints and Christian heroes, is presented to the school children as the enemy of humanity and progress.

The beginning of the war against the Christian religion in the primary and secondary schools was commenced in 1882, when Jules Ferry succeeded in passing a measure through the French Parliament for the secularization of the French schools. Henceforth only secular instruction was to be given in the schools. To allay the fears of the people, it was promised that the religious beliefs of all the children would be respected. For several years these promises on the whole were implemented, whilst most of the schools were taught or directed, by communities of religious Orders; but on the accession of infidels and

Freemasons<sup>1</sup> to the Government of France lay teachers were encouraged to teach irreligion in the schools, and finally the religious Orders were expelled from all the schools of France and forbidden to teach children, even privately.

To their everlasting dishonour be it said, too many of these lay teachers were subservient to the blandishments and promotions that the Government offered them. They undertook to de-Christianize Catholic France. Books that breathed Christian dogmas and morals were withdrawn from the schools, and manuals were substituted that subvert the very foundations of Christianity, as may be seen from the following extracts, which have been taken from some of them :—

#### DOCTRINE AND MORALITY<sup>2</sup>

Does God exist? No belief in God, or the origin of the world, or the origin of man is accepted by thinking men : we are able only to make suppositions on all these questions.—M. J. Payot, *La morale à l'école*, page 230.

Concerning the nature of God and also His existence we are only able to make unverified hypotheses. For example, it is absurd to suppose a first cause of the Universe, for this cause would itself be without a cause, and on the other hand a concatenation of causes infinitely is inconceivable to our mind.—M. J. Payot, *Cours de morale*, page 199.

Religious dogmas and metaphysical hypotheses are scientifically undemonstrable, and consequently we are at liberty to accept or reject them.

As no one can know scientifically what happens after death, men began to make conjectures and numerous suppositions on this subject.

We do not know scientifically whether there is a God. All those things, that man does not know and cannot scientifically know, are named unknowable. Religions busy themselves principally with the unknowable.

All religions speak of God and of that which happens after death ; they speak to us therefore of things that cannot be known,

<sup>1</sup> French Freemasons are professedly infidels, so much so that British Freemasons cut themselves aloof from them.

<sup>2</sup> Taken from *Ce qu'on enseigne aux enfants dans nos écoles publiques*, par J. Bricout, Paris ; and *Les Associations des Familles*.

of things we are at liberty to believe, but which we cannot know scientifically. That is why we have the right to choose amongst religions the one that pleases us best ; and if none of them pleases us, we have the right to be without religion. Formerly, for instance, Catholics believing that their religion alone was true and good, endeavoured to force all the world to be Catholics. They acted wrongly.

What is morality ? Morality teaches us what actions are good and what are bad. Good actions are those that are useful, that is to say, those that make us truly happy and make other men happy. Bad actions are those that are hurtful, that is to say, those that make us unhappy and make other men unhappy.—M. Albert Bayet, *Leçons de Morale*, pages 2, 149, 150, 159.

The differences of habits, of opinions, and of ideas that exist amongst men must be very insignificant in the eyes of God.—M. E. Primaire, *Manuel d'Education morale*, page 258.

#### THE BIBLE

The fables and the religious beliefs of the Jews are contained in the Bible, the sacred and national book of that people, and particularly in its first part, the Old Testament. The Jews attributed a divine origin to this book, but learned critics of the nineteenth century have pointed out the want of unity of the work, and discovered that it was composed by men of different ages and ideas.

The Bible is filled with the omnipotence of *Jehovah*, the only God, capricious and terrible, to whom were offered sacrifices of blood and sometimes even human victims.—MM. Rogie et Despiques, *L'Histoire de France*, pages 24, 25.

#### CHRISTIANITY

The Church, forgetful of the words of Christ, used its power to amass immense riches, which enabled it to dominate the world.

Certain fanatical and imprudent disciples revolted against the Roman laws and provoked the persecutions of the Christians.—MM. Rogie et Despiques, *L'Histoire de France*, le cours superior, page 80 ; le cours moyen, page 10.

The Christians placed statues amongst the oak trees, and elevated crosses by the sides of fresh water springs, then they put them under the protection of the saints that the Gauls might see their gods. They substituted their feasts for those of former times, taking care to celebrate them on the same days, so that



the people might believe that they were the same. Thus it was that little by little Gaul became Christian.—M. Calvert, *Histoire de France*, page 21.

The Church set itself to work to destroy, not only by persecutions but by force, all that remained of ancient religions.—M. Aulard, *Histoire de France*, page 12.

#### HISTORY<sup>1</sup>

Charlemagne, an ardent Christian, made war on the Saxons, who wished to preserve their religion. By the force of violence and massacres he subdued and converted them.

The Crusades shed rivers of blood and caused the destruction of many fine cities. In a word, they did more harm than good.

The clergy becoming very corrupt, a part of the people, especially in the midlands of France, generally called the *Albigenses*, clamoured for the reformation of the Church.—MM. A. Aulard et A. Debidour, *L'histoire nationale*, pages 23, 64, 71.

Waldeck-Rousseau was a great advocate. He had a good knowledge of the law, and wished all the people to respect it. He made all feel that he was the head of the Government. He encountered the religious associations, the *congregations*, who claimed that they were not subject to the laws of the State. 'They must be dissolved,' he said, and the rebel congregations ceased to exist.

Michelet became a celebrated professor. He taught at Paris. Hundreds of youths flocked to his lectures. Speaking of the Jesuits, amidst the applause of his students, he said: 'They are the eternal enemies of liberty.'—M. L. Brossolette, *Histoire de France*, pages 144, 148.

Philip le Bel desired money from the clergy. The clergy resisted the demand, and the Pope excommunicated Philip le Bel. Philip convoked in Paris, in 1302, the representatives of the nobles, the bishops and the citizens, and he asked them: 'Must we surrender to the Pope?' 'No!' replied the States-General: these were the first deputies of the French nation. Thus supported, the king sent his soldiers into Italy. Pope Boniface VIII., an old man of eighty-four years of age, was insulted and beaten by them. He died a few days afterwards of grief, of shame, and of hunger. His successor obeyed Philip le Bel, left Rome, and came to reside at *Avignon* (1305). What

<sup>1</sup> Extracts taken from *Bureau d'Informations Religieuses et Sociales*, Paris

a change from the first Crusade. Then the Popes made the Kings tremble : in the days of Philip le Bel, the Kings commanded the Popes.

In the days of the good King Robert, an excommunicated king had no longer a wife, children, or subjects. Everyone fled from him as they would fly from a pestilence. But under Philip le Bel things were altogether changed. 'I will not submit to the Pope,' said the King, and the King was not abandoned ; he retained all his power. In a little while he said : 'It is the Pope that is the criminal. It is he that must be chased from the Church,' and he sent his agent Nogaret to reduce the Pope to submission.

In the sixteenth century, a German, *Luther*, and a Frenchman, *Calvin*, refused to obey the Pope or to attend Mass. Others imitated them. There were in Europe, from that time, two kinds of Christians : the Catholics, faithful to the Pope, and Protestants, who are also named *Lutherans* or *Calvinists*.

In France the Catholics were much more numerous than the Protestants.—M. E. Devinat, *Histoire de France*, pages 66, 67, 106.

Joan of Arc is a prisoner. The English are happy. They confined her in a dungeon of the Castle of Rouen ; she was judged by the *tribunals of the Church*. 'She is a sorceress,' they declared ; 'she is not the envoy of God, but of the devil !'

Thanks to the Crusades, Western Europe was civilized by the Arabs.

What was wanting in the Middle Ages ? Toleration. The Church all powerful, and the Kings her allies, stifled the new spirit, the spirit of progress.

The University of Paris in the Middle Ages. What is taught there ? The science of reasoning, *Scholasticism*. Unhappily the intelligence is not developed ; the student learns words, always words ; memory alone is in honour. Thus the mind turns over, without ceasing, the same order of ideas, like the powerful lion compelled to bite vainly the bars of his cage.

Love the Republic—you have truly appreciated its benefits ; it continues the prolific work of the Revolution ; it will make you the future citizens of a great State ; it allows you to receive the education that becomes free men ; in fine, it gladly opens to you the door of all careers. Love the Republic.—MM. Guiot et F. Mane, *Histoire de France*, pages 70, 82, 175.

The<sup>re</sup> diabolical boldness of the enemies of God, in cap-

turing the schools, and making them the seminaries of infidelity, brought forth a collective letter from the Bishops of France that is worthy of the brightest days of 'the eldest daughter of the Church' in the ages of Faith:—

*The Letter of the Bishops to the Faithful of France.*

THE CARDINALS, ARCHBISHOPS, AND BISHOPS OF FRANCE TO  
THE FATHERS OF FAMILIES OF THEIR COUNTRY.

VERY DEAR BRETHREN,—The Bishops of France addressed a collective letter to you last year to warn you of the serious blow that the two newly-proposed laws<sup>1</sup> would strike against the authority of fathers and mothers of families in the matter of instruction and education. It was a cry of alarm and of protest, of which, alas, no one doubts the too manifest necessity. To-day we remind you, according to the doctrine of the Church, of the rights and duties of parents as regards the school.

The family is a society, established by God, which man may not destroy. Whatever certain philosophers, imbued with the gross errors of paganism, may say, the family must live in the State without confounding itself with it. Fathers and mothers, the children belong to you; they are bone of your bone, and flesh of your flesh; you who have imparted to them the life of the body have the imprescriptible right to introduce them to the life of the soul. In the work of education, the State can aid and help you, but cannot supplant you. He is wrong who invokes that which is called the rights of the child to justify his pretensions. The child has no rights that can overthrow the rights of God, in whom we are obliged, from the very dawn of reason, to recognize our first beginning and last end; he has not, notably, the right to refuse up to the age of sixteen, according to the theory of a sophist, who was himself a bad father, the religious instruction which parents are bound to give him or have imparted to him. The right to procure for your children instruction and education conformable to the requirements of your religious faith is recognized not only by the natural law, such as right reason dictates, but by the divine law, as holy Scriptures have revealed to us. We read in the Book of Proverbs this passage, taken from many others: 'My son, keep

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<sup>1</sup> The laws proposed in the Chamber of Deputies: first, to prevent parents having recourse to the common law for redress against teachers; second, to suppress 'free' or Catholic schools.



the commandments of thy father, and forsake not the law of thy mother. Bind them in thy heart continually.'<sup>1</sup>

The Apostle St. Paul teaches the same doctrine by his words which establish the family on the primordial foundation of paternal and maternal authority: 'Children, obey your parents in all things; for this is pleasing to the Lord.'<sup>2</sup>

The mission of education, which is incumbent upon you, can be fulfilled by yourselves or by others, and since you confide it ordinarily to the school, it appears to us very opportune, on account of the present conflicts, to remind you of your duties and powers with regard to this institution, considered justly as the prolongation of the family life, as the master only instructs the children there in virtue of the delegation of the parents to whom they belong.

Fathers and mothers, you have primarily the right and the duty to choose for your children a school where they can be educated as your beliefs demand.

You have, in the second place, the right and duty to supervise that school, and to withdraw from it your children immediately you learn that it constitutes for them an approaching danger of moral perversion and consequently of eternal damnation. Above all, we are bound to affirm your right and your duty to choose a school for your children where they can be educated according to religious principles.

One distinguishes, under the school regime in force in our country, two kinds of schools: the free or Christian school and the public or neutral school. It will not be superfluous to define both the one and the other before stating on what principles you are bound to fix your choice. The free or Christian school is that where the master possesses, with the necessary teaching qualifications, the happiness to believe and the courage to live according to his belief, imitating thus the Divine Teacher, of whom Holy Scriptures make known that he practised His moral precepts before teaching them.

The Christian school is that where the master inscribes on the first page of his programme religious science, puts into the hands of his pupils books of perfect orthodoxy, and creates around them an atmosphere favourable to the growth of faith and virtue.

This school your children should find everywhere, and the State will be bound, in simple justice, to put it at the disposal of families, especially in our country, where the immense majority

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<sup>1</sup> Prov. vi. 20-22.

<sup>2</sup> Coloss. iii. 20.

profess the Catholic religion; for thus spoke Pope Leo XIII. with supreme authority: 'It is of supreme importance that children born of Christian parents be instructed as soon as possible in the precepts of religion, and that the instruction by which we are wont to fashion man and form him from his first years be not separated from religious education.'<sup>1</sup>

That is why, very dear brethren, true Catholics have always understood the necessity of the Christian school.

What sacrifices have they not made to multiply, in towns and villages, these asylums where divine science was dispensed at the same time as human science, by masters whose ability has been well recognized by juries but little suspected of partiality in their favour.

And when these establishments for scholars, where the hopes of families were sheltered, were overturned by the tempest which still rages, what admirable agreement have we not experienced amongst Catholics to raise those schools from their ruins.

However, the number of reconstituted schools since the dispersion of our beloved teaching communities is far from sufficient, and it will be necessary unceasingly to augment them. Let those persons who have been favoured with riches set themselves to the work without objecting to the new charges which a pernicious law, the law of separation, imposes upon them. The construction of a Catholic school is as necessary as that of a church. It will be of small importance to have churches when they are empty, and our churches will not wait long to be emptied if the schools from which religious instruction is banished continue to be filled. At the side of the free or Christian school there exists the public or neutral school, whose origin you know. Thirty years ago, by a deplorable mistake or by perfidious design, the principle of religious neutrality was introduced into the school laws, a principle false in itself and disastrous in its consequences. What in effect is this neutrality but the systematic exclusion of all religious instruction in the school. And, in consequence, discredit is thrown on the truths which the whole people have looked upon as the necessary foundation of education.

At all times, and for all countries, the Sovereign Pontiffs have denounced and condemned the neutral school.

Pope Pius IX. reprovéd it, on the 1st November, 1854, in his consistorial allocation apropos of the law that was in

<sup>1</sup> Encycl., *Nobilissima Gallorum Gens*.

preparation in Piedmont. And in his letter to the Archbishop of Fribourg, July 14, 1864, the illustrious Pontiff, after condemning neutrality in higher education, added: 'This detestable mode of instruction separated from the Catholic Faith and the protection of the Church . . . will produce even more pernicious effects if it is applied to the popular schools, for in these schools the doctrines of the Church should hold the first place. Youth is then exposed to the greatest peril when instruction is not strictly united to religious doctrine in the schools.'

Leo XIII., addressing France, has in his turn expressed the most categorical and the most strongly marked condemnation against this teaching system. He says, in speaking of the necessary union between instruction and religious education: 'To separate the one from the other is to desire the child to remain neutral when it is a question of a duty to God; a system deceptive and disastrous at an age so tender, since it opens the door to atheism and shuts it to religion.'<sup>1</sup>

He taught the same doctrine to the Bishops of Bavaria, December 2, 1887, and to the episcopate of Canada he declared that the neutral school was 'contrary to the Faith, to good morals, and social well-being' (December 8, 1897).

The Bishops of France re-echoed these condemnations pronounced by the Popes, as soon as peril appeared, and should the regime of school neutrality be established in our country it will be unjust to pretend that this sad deed was done with the favour of our silence.

The neutral school has been reprov'd by the Church, and this reprobation, which certain spirits term intolerance, is eminently justifiable. Do we not see in the suppression of all religious instruction in the school one of the principal causes of the profound evil from which France suffers, and which strikes at the same time the family, morality, and patriotism?

Meanwhile the neutral school exists everywhere in our country, and hence, fathers and mothers of families, a question of the greatest gravity weighs on your conscience. Are you allowed to make use of it for your children, or rather are you compelled to choose another that is Christian?

We reply at once that it is an imperative duty, wherever a Christian school exists, to send your children to it, lest great harm befall them and you.

We reply, in the second place, that the Church forbids you

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<sup>1</sup> Encycl., *Nobilissima Gallorum Gens*



to send them to the neutral school, on account of the danger which their Faith and virtue will there encounter. This is the essential rule which no one may ever forget.

Nevertheless, there are circumstances when, without breaking this fundamental principle, it is permissible to temper its application. The Church tolerates attendance at a neutral school when there are serious motives for such an attendance. But you can only take advantage of this toleration on two conditions: there must not be anything in the school to wound the conscience of the child; and, moreover, parents must supply, outside the classes, that instruction and religious formation which the scholars do not there receive. What is the binding force of these rules of conduct which are applicable to those institutions that give secondary instruction as well as to the elementary schools? The pontifical injunctions declare that they bind under pain of grave sin, and that those parents cannot be absolved in the tribunal of penance who, forgetful of their duty, neglect to fulfil it.

Just now no one can deny that a great number of the so-called neutral schools have lost that character. Teachers do not scruple to outrage the Faith of their pupils, and they commit this unquestionable abuse of confidence by the books used in class, by oral instruction, and by many other devices that their impiety suggests.

To put neutrality in practice in this manner is flagrantly to contradict the principal promoter of the neutral school, who, to make his unhappy law acceptable, said in the French tribune: 'If a public teacher forget himself so far as to give instruction that is hostile, outraging the religious beliefs of anyone, he shall be as severely and as quickly reprimanded as if he had committed the other fault of ill-using his pupils.'<sup>1</sup>

It is to-day publicly notorious that these solemn promises have been strangely despised in many of the schools, where the masters, in place of respecting the Christian convictions of the families, seem to have no other object than to make their pupils freethinkers.

In face of this impious work, we feel obliged by our conscience as Bishops to remind you of the *non licet* of the Gospel. No, it is not permissible to choose for your children a school, of whatever kind it may be, where they will be educated in the contempt of the teaching of the precepts and the practices of our holy

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<sup>1</sup> M. Jules Ferry, in the Senate, March 16, 1882.

religion ; in so doing you would be co-operating in this most pernicious work, and this complicity, gravely culpable, will render you unworthy of the Sacraments of the Church.

You have, in the second place, the right to supervise the school. You should know the masters who direct it, and the instruction they there give ; nothing that is put into their hands and placed before their eyes should escape your solicitude : reading books, copy books, pictures, all should be controlled by you.

Besides the danger to the Faith, there is the danger to virtue ; you must watch also over this, above all when there is a question of mixed schools, where they are in vogue, by the mixing of children of both sexes, a system of education contrary to good morals, and altogether unworthy of a civilized people.

To fulfil their duties more efficaciously, certain fathers of families have considered that it will be useful to form associations. In effect, these associations facilitate the diffusion of information regarding the moral condition of a school and give more authority to just demands. We cannot but encourage these associations. However, it would be a mistake to attribute their inception to any sentiment of hostility.

The teachers who are beyond reproach—such are still to be found, and we are pleased to do them justice—will have nothing to fear ; on the contrary, they should rejoice to see families not living indifferent to the work of the school and to see them assisting the cultivation of the spirit and the hearts of the pupils as intensely as possible, in thus supporting them in their zeal.

Finally, very dear brethren, we wish ourselves to aid you in the work of supervision to which we have invited you. This is why, in exercising the right inherent in our episcopal charge, and which the laws and tribunals will in vain seek to question, we condemn collectively and unanimously certain class books that are very reprehensible and in which, moreover, there appears the spirit of lies and slanders towards the Catholic Church, her doctrines and her history.

These manuals, of which a list is appended to the present pastoral letter, contain a multitude of pernicious errors. They deny, or represent as insufficiently demonstrated, the most essential truths—the existence of God, the spirituality of the soul, original sin, and reject in consequence the whole supernatural order.

Hence we interdict the use of these books in schools, and we forbid the faithful to keep them in their possession, to read them,

or to leave them in the hands of their children, whatever may be the authority that imposes them. Other manuals may be found which perhaps merit the same degree of the censure of the Church. It will behove every Bishop to point them out in his own diocese, and to proscribe their use as he finds it opportune. This sentence, pronounced by your Bishops with the authority of doctrinal judgment, binds all Catholics, and, in the first place, the fathers of families. The teachers, on their part, shall be responsible in these matters; they themselves shall be condemned if, in their schools, of which all the pupils, or almost all, are Catholics, they introduce those works which the Pope or the Bishops, the sole competent judges of orthodoxy therein contained, have formally condemned.

You will, therefore, dearly beloved brethren, closely watch over the instruction imparted to your children. This duty is as imperative as it is easy to accomplish. When it is a question of the choice of a school, it may sometimes happen that you have not the opportunity of exercising the desired liberty; on the other hand, however, for the supervision of the school, you have at your command, everywhere and always, the power and the resources that are requisite.

If, by the aid of enlightened vigilance, which your Faith will inspire, you discover that the school, in place of being neutral, is rather—to quote a famous definition—a mould into which a Christian child is thrown, and from which there issues a renegade, you shall not hesitate promptly to withdraw your sons and your daughters from it.

A law which is in preparation will perhaps soon make the exercise of paternal authority more difficult, but whatever obstacles you may meet in the laws of men, desirous above all to observe the divine law which commands you to remove any danger there may be to the soul of your children, you will remember the bearing of the Apostles before the first persecutors of the Church, and you will reply to those who counsel you to take up another attitude: *It behoves us to obey God rather than men.*

In reminding you of your duties as educators, we are not able to forget those which the spiritual paternity imposes upon us, with which we are invested as regards your children. Hence we ourselves declare we are ready to suffer everything to help you to defend them against the perils of the school, and to preserve for them with the inestimable treasure of the Faith, the glorious hopes of which it is the earnest, for this life and for the future life.



The great French heroine, whom the Pope now gloriously reigning has just placed on our altars, in the course of her life of wars, said, when the difficulties of an enterprise were represented to her : ' The men of arms will fight, and God will give the victory.'

A most fierce battle is at this moment waging around the school, and, on viewing the obstacles, which appear on all sides, it seems difficult to accomplish the triumph of this sacred cause, the education of your children. Nevertheless, having confidence, fighting together, with the spirit of discipline and courage, fighting, above all, as we are bound, like Joan of Arc, under the standard of Jesus and Mary, and of God, whose assistance shall never fail us, we shall carry off the victory. Let this victory procure for us very soon that school regime which a people loving justice and liberty like the French should, above all, desire to have, and which the sad results of the neutral school impel us to desire still more keenly in the interests of the family, of religion, and of the country.

September 14, 1909,

*On the Feast of the Exaltation of  
the Holy Cross.*

SIGNED BY THE CARDINALS, ARCHBISHOPS,  
AND BISHOPS OF FRANCE.

#### LIST OF CONDEMNED BOOKS.

Calvet, *Histoire de France* ; Gauthier et Deschamps, *Histoire de France* ; Guiot et Mane, *Histoire de France* ; Rogie et Despiques, *Petites lectures sur l'histoire de la civilisation française* ; Devinat, *Histoire de France* ; Brossolette, *Histoire de France* ; Aulard et Debidour, *Histoire de France* ; Aulard, *Elements d'instruction civique* ; Albert Bayet, *Leçons de Morale* ; Jules Payot, *Cours de Morale, La Morale à l'école* ; Primaire, *Manuel d'éducation morale civique et sociale* ; Primaire, *Manuel de lectures classiques*.

The reading of the collective letter of the Bishops, from the pulpits of all the Churches—a declaration of war against the infidel schools of the State—caused a great sensation throughout the whole of France. The Government, alarmed at its effect on the people, immediately put in motion the servile ministers of the accommodating law. The Cardinal Archbishop of Reims and several Bishops were arraigned

before the criminal tribunals, and condemned to pay heavy fines. Priests, who had fulfilled their duty by promulgating the message from their chief pastors, were subjected to the same penalties. But the great heart of France was deeply touched by the solicitous warning of the Bishops, and roused to determined action.

#### THE MANIFESTO OF THE CATHOLIC LAITY

The Catholic parents of France have formed 'Associations of Families' to defend their rights and their religion; to build Catholic schools and to procure State grants for all schools in France. The *Action libérale populaire*,<sup>1</sup> one of the many periodicals issued by the Associations, manifests their determination.

The vast majority of the French nation desires to live and work in peaceful tranquillity. They wish to bring up their children with a view to their welfare, and, to attain this object, they must have the free choice of the school and the teachers that have their full confidence. Their right in this regard is above the laws, governments, and parliaments, anterior and superior to the right of the State, because it is founded on nature itself; their children are the flesh of their flesh, the continuation of their personality, and nothing in the world can deprive them of this right or impose upon them a school or education contrary to the convictions of their family. Any violence, particularly any legal constraint in this respect, is an odious and intolerable tyranny, which all parents worthy of the name and lovers of their children, are bound to resist to the last.

Freemasons alone desire war. The odious sect named Freemasonry, which has taken possession of the Republic, under the guise of radicalism, persists in the desire for war and the violation of the rights of families.

Actually in France to-day, in 30,000 out of 36,000 civil parishes, parents cannot choose the school teachers of their children; in those parishes there is only one school—the public school. Moreover, the public school is not 'neutral,' as our adversaries hypocritically promised, that the people might be deceived; it is Godless; without moral teaching; consequently positively opposed to Christian doctrine.

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<sup>1</sup> *L'action libérale populaire*, January, 1912.

The teachers, even in spite of themselves, are more and more forced into sectarianism and anti-clericalism by their superiors, the teachers' associations, and their educational periodicals. The school, that should be an instrument of union and progress, has been utilized by Freemasons in power as a war machine against the dogmas, the morality and the history of the Christian Church, and when parents and priests refuse to deliver up the children committed to their care to the enemies of the Faith, to teachers with their anti-religious manuals, they are indicted as the aggressors. Under pretext of the defence of the laity, they are threatened with fines and imprisonment, a shameful reversion of the true state of facts! War is made on us; to neglect our own defence will be the basest cowardice and treason.

*The peace that is desired.*—The war that we have not desired nor provoked does not terrify us; by it we shall conquer a durable peace, based on justice. Cost what it may, we shall have it, although we should have to fight for five, ten, or twenty years. We ask neither favours nor privileges, we demand our rights; so long as we do not regain them, we shall never lay down our arms.

#### WHAT ARE OUR RIGHTS ?

First, liberty to all qualified and reputable French men and women to enter the teaching profession; secondly, freedom for all parents to choose schools for their children; thirdly, the proportional distribution of National Education funds amongst all 'free' and public schools without distinction, as these funds are the property of the citizens—the contributions of all—not the possession of the State. Catholics, Protestants, Free-thinkers, Socialists, Trade Unionists, and others must have the liberty to freely found and direct their schools at the public expense. They shall not be obliged, as now, to make a two-fold payment: one the impost of the government schools; the other, subscriptions for the maintenance of 'free' schools.

This is what we name the 'proportional payment of school funds.' This is scholastic justice, as proportional representation is electoral justice, and as professional representation imparts social justice.

The proportional payment of State funds to all schools is neither a novelty nor a chimera, since it is in practice in England, Belgium, and Holland<sup>1</sup> with general satisfaction. Its

<sup>1</sup> Also in the Provinces of Quebec and Ontario, Canada; and in Norway; but most perfectly in Germany.



application will be very simple ; equal grants will be made to every private or public school for each child in attendance—school inspectors will verify and report the numbers in attendance at all schools.

On this common ground of justice to schools, as on that of electoral justice by proportional representation, sincere and loyal men of all parties can and should agree, whilst each one preserves fully the liberty of his convictions, his programme, and his propaganda. Protestants, Socialists, Trade Unionists, freethinkers, as well as Catholics, shall thus be guaranteed against all oppression.

In our divided country no peace can be possible nor durable without proportional payments to all schools. Let there be no more privileged schools, such as the Government schools are to-day. An honest and loyal equality for all schools would develop the progress of public instruction. There should be complete liberty for all families, rich as well as poor, to choose the schools for their children.

For very many teachers, too often constrained to teach against their convictions, fastened under the yoke of the prefect and sub-prefect, debased to the rôle of an election agent, this will be a true deliverance, the end of a humiliating position, the realization of their aspirations towards the autonomy of the school and the liberation of their conscience—the constituents of the fundamental liberty of their profession. No reform could be more simple, more clear, more just, more national, nor more conformable to all just interests.

It touches the innermost feelings of the people, who do not want to be despoiled of that which every honest man—even indifferently religious—cherishes as his dearest possession : his paternal authority, the soul and the future welfare of his children.

*The certain triumph of justice to the schools.*—Everyone, therefore, should propagate amongst his associates unceasingly and with zealous ardour this simple and triumphing idea of the proportional payments of school grants, be they indifferent or hostile. Proclaim it in election programmes and meetings. Vote only for those who promise to defend it. Henceforth force municipalities and candidates for municipal honours to concede the full liberties of the law ; the vote of succour to the needy, (books, food, conveyances, etc.) for all children of all schools without distinction.

The proportional school subventions will certainly triumph over all obstacles, all opposition, all enemies, all persecutions,

because it is justice and right, because on this ground one can never appeal in vain to the good sense and the justice of the people, who sooner or later will impose it on the recalcitrants.

#### THE SECULAR EDUCATION

Secular education has been tried in France for the past thirty years ; its effects have been disastrous ; crime has been increased in an appalling way ; the prisons are filled ; the guillotine is constantly busy.<sup>1</sup> Pastors and parents bear testimony that it has been 'a war machine against the dogmas, the morality and the history of the Christian Church.' Amongst Christians, secular education, i.e., education without religion, is fundamentally wrong. There cannot be real education without morality. There cannot be morality without religion. The French teachers have put God out of the schools and Christian morality. They found that some kind of morality was necessary ; they teach that morality consists in doing those things that are 'useful' and 'make men happy,' thereby opening wide the door of every manner of crime and selfishness, and the stifling of conscience.

Christian society cannot subsist on such hollow basis. Conscience is the 'ambassador of God in the soul,' the moral law written in the heart to guide men in their life and actions ; the manifestation of God's will in every individual soul—the norm of morality. There cannot, therefore, be morality without God. For further guidance of the soul, God has given His positive law. This law is promulgated by those whom he has appointed 'to teach all nations,' the dispensers of His mysteries. Therefore, the most important part of the child's education is its instruction on the revealed laws of God, and consequently education cannot be separated from religion without grievously

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<sup>1</sup> On March 16, 1912, in the Criminal Court of Saint-Omer, the Government Prosecutor, addressing a judge and jury, against a young man twenty years of age, charged with murder, said : 'At this moment, there are ten persons indicted on capital offences in the prisons of Bethune, Arras, and Saint-Omer, towns quite near to each other ; five of these prisoners are not twenty years of age. What are we coming to ? What will become of us, if this criminal progression increases ?'—*La Croix*, Paris.

injuring the soul of the child. Religion and education must go hand in hand ; ' He who is not with Me is against Me ' should be inscribed on the portals of every school in a Christian country. There cannot be ' neutrality ' or mere secular education in the school. The moral conduct of the children whilst they are under instruction, and their morality in after life, are moulded in the school. The teacher must of necessity throw the shade of his feelings and sentiments into many of the subjects that cannot be eliminated from the school curriculum. In France the child is turned out of the public school a freethinker and an atheist. Should the people of these countries enact a law to secularize the school, undoubtedly, in the course of time, generations of atheists will be sent out of the school to obliterate Christianity.

JAMES W. M'CARTHY.



## SPIRITUALISM AND THE SPIRIT WORLD—II

IN a preceding paper<sup>1</sup> I endeavoured to show that the phenomena of Spiritualism could not be the work of disembodied souls. I have said also that these phenomena are for the most part frauds, and that every day reveals some new species of fraud in their manifestation. It would, however, be a mistake to suppose that all are the results of fraud; and it would seem to be generally admitted that there are genuine phenomena in connexion with Spiritualism for an adequate explanation of which the operation and agency of the invisible world must be invoked. Not that we admit that they are miracles. Of a miracle properly so called God alone can be the author. It is, as St. Thomas defines, '*opusquod efficitur praeter ordinem naturae.*' By '*naturae*' the Angelic Doctor here signifies the whole Universe of created things, which embraces, therefore, not only corporeal and sensible but spiritual and invisible beings, like angels. And by the '*ordo naturae*' he means two things, (*a*) the mode of existing and acting of those created causes, which is always uniform in the sense that every natural cause acting in the same circumstances always produces the same effect; and (*b*) the common course of God's Providence in the ruling and government of the world. For a miracle, then, it is not necessary that there be no created agent adequate to perform the work. There may be many such created causes, but the '*ordo naturae*' demands that these agencies should be brought into operation, and if *de facto* they have not been appealed to, the work is miraculous, although many causes may be found in the universe of created things quite sufficient for its production.

On the other hand, however, it is necessary that the manifestation, whatever it may be, to be miraculous, must be such as to exceed the power of all created nature. 'Non

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<sup>1</sup> I. E. RECORD, December, 1911.

sufficit,' says St. Thomas,<sup>1</sup> 'ad rationem miraculi si aliquid fiat praeter ordinem alicujus naturae particularis. Quia sic quum aliquis projicit lapidem sursum miraculum fieret cum hoc fit praeter ordinem naturae lapidis. Ex hoc ergo aliquid dicitur esse miraculum quod fit praeter ordinem totius naturae creatae.' From which the Angelic Doctor concludes that God alone can be the author of miracles, because whatever an angel does, or any other created cause, 'hoc fit secundum ordinem naturae, et sic non est miraculum.'<sup>2</sup>

The very nature, then, of the Spiritualistic phenomena excludes the supposition that they are miraculous. It would be blasphemous to suppose that God could be the mere tool of His creatures. They have, therefore, attracted widespread attention from both theologians and scientific men. The latter have put forward two main theories to account for their production. The first is the existence of a material, but subtle magnetic fluid, invisible and intangible, and, although material, possessing none of the properties with which we know matter is endowed, and yet, itself, endowed with extraordinary powers. Of this I may say now that if we are to conceive this matter as something existing outside our own personality we may dismiss the theory as preposterous. That it might be entertained at all one necessary condition would have to be fulfilled. Our wills must necessarily exercise control over that matter just as they exercise control over our hands or feet. Now this our wills can never do. Although the organs of our body are more or less under the subjection of our wills, this cannot be said of any extraneous matter whatever, however subtle it may be. The second theory put forward is that discussed in my last paper, that the authors of Spiritualistic phenomena are disembodied souls, which have acquired,

<sup>1</sup> *Summa*, quæst. 110, art. 4, in corp. 26, ad 4.

<sup>2</sup> 'The question,' says Dr. Murray (*Essay on Miracles*), 'whether when pure spirits by a mere act of volition or by the application of their spiritual energies transfer masses of matter from one place to another, or prevent their physical effects, as of burning in fire, these effects can rightly be called miracles, can arise only in the case of evil spirits. For only good angels, as a rule, act as instruments of the Most High. A superhuman work not performed by the devil is, necessarily, a work of God. Now no one would call the operation of the devil a miracle.'

by their separation from the body, a knowledge and a power superior to that of their former state. But do these two theories exhaust the possibilities of the case? May there not be another agency to which the extraordinary phenomena of Spiritualism may be attributed? May there not be in the invisible world other spirits free from matter? and, if so, what knowledge and power over the material elements of the universe may they be able to exercise?

As already pointed out, we might argue by analogy for the existence of such spirits. If 'man be the apex of the material universe'—the centre and source to which vast cycles tend—as to his body superior to all beings of a purely material order, is it not natural to look for the complement of that spiritual perfection which is only shadowed forth in him in a class of beings entirely free from the environment of matter? And when we consider the nature of our intellectual operations, our argument is confirmed. Our intellectual operations are carried on within narrow limits—their proper sphere is the material universe. And to form a concept of an immaterial substance, like God, we have to have recourse to material images. We see now 'in a glass darkly.' The eagle can behold the sun with unblinking gaze. Man must use a shaded glass. So we can conceive spiritual substances which have the power of exercising mental operations without the aid of sensible images, and possessing a spiritual perception compared with which ours is dim indeed.

'Our sun,' we are told, 'is but a third-rate star'—Alycone may be, astronomers say, a hundred times larger—and 'our earth the tiny offshoot of some nebula.' So we can conceive other planets of greater magnitude, inhabited by beings of greater knowledge and greater power; and so we can ascend in the order of creation till we reach the world of spirits; and then rise higher still through their ranks till we reach the inner choirs that stand round the Great White Throne on which the Divinity is enshrined. And all this by strict analogy. But for an adequate proof we rely on the definition of the Church: 'God in the beginning of time created both natures, the angelic and the earthly, afterwards



the human as it were a common creature composed of spirit and body.'<sup>1</sup>

It is difficult for us, as composite beings, to form an exact notion of the nature of this spiritual creation. We call them *pure* spirits, that is, spirits entirely free from matter and from all essential relations to it. It is in this, precisely, that they differ from the human soul. There is nothing material in them. A point which geometers define as position without dimensions is too material to typify their simplicity, and as they are endowed with intelligence far superior to ours, they are sometimes called 'intellects' or 'minds.' Not that this title exhausts their whole nature. As with us their intellect is only part, albeit the noblest part, of their nature. Their natural condition places them in closer proximity to God than ourselves; and hence, because employed sometimes by God to deliver His messages to man, they are called angels.

#### ANGELIC KNOWLEDGE

In treating of their knowledge we must distinguish their natural from their supernatural knowledge. Catholic theology teaches that some of them at least possess supernatural knowledge, which consists in the vision of the Divine Essence. But of this we do not treat now. To arrive at an exact notion of their knowledge it is necessary to examine how they acquire it. Our acquisition of knowledge is gradual; we acquire it through the senses and the imagination. The development of the senses is a gradual process: it resembles the growth of plants. The seed is first planted, then the root appears, finally the plant and the fruit according to its kind. So it is with our knowledge. But with angels it is different. From the very beginning of their existence they are endowed with the whole store of knowledge peculiar to their state. They do not pass from ignorance to knowledge as we do, by labour and effort; nor do their intellects suffer by decay. We receive from God the power of understanding and the capacity of knowing, and, by study and

effort, by strain and fatigue, with the natural development of our senses, there is a corresponding growth in both those Divine gifts. But angels receive not only the capacity of knowing directly from God, but God Himself impresses on the angelic mind the images by means of which they can have knowledge. Their intellectual operations, then, consist in the contemplation of those images, and at a single glance the whole range of human science is open to their perception. No doubt their knowledge is capable of accidental growth. They do not know, nor can they foresee, free future events. When these events take place in time there must be an addition to their knowledge. I have called this *accidental* because it comes in a peculiar way. It is not the result of a new impress of images on the angelic mind. The images impressed from the beginning suffice for that purpose, but angels are enabled to contemplate them with greater accuracy in all their attendant circumstances. Besides, there is nothing to prevent God from making a new revelation to them either directly or by means of other angels, or even by man. In all these ways their knowledge may increase; but all these are only accidental increments, and the fact of their existence in no way alters the theory which I have enunciated.

What I have said in reference to the manner in which angels acquire knowledge applies to all. Nevertheless, there is a difference in their knowledge. Some were created in superior rank to that of others, and the superior receive the impress of divine images in greater measure than others. Consequently, as there are superior and inferior angels in rank, so there are superior and inferior in the extent of angelic apprehension.

When we come to treat of the extent of their knowledge it is easy to see the difficulty of the task. Their knowledge differs from ours in origin and in kind. I refer, of course, to their natural knowledge; but this we can safely assert, that the knowledge of the lowest angel far surpasses that of the most perfect human being. It takes a long life to excel in even one branch of knowledge, and at the end there is always a larger vista of knowledge left unexplored.

Most of our time is spent in correcting previously-formed and erroneous conceptions, but all these imperfections are absent from the knowledge of angels. The images impressed on their intellects by the Divine Hand enable them to understand all the natural sciences and their details. At a single glance they can take in the whole science of astronomy or geology, and this immediately and accurately. We have to exercise time and energy to acquire accurate information respecting each particular class of any species or even each individual of the class. But with the infusion into the angelic mind of the image representing, e.g., animal nature, an angel knows not only the various individuals of the species that ever existed, but their particular properties and actions. And this is true of every object in nature, organic or inorganic, material or spiritual.

Two things, however, must be excluded from the scope of angelic knowledge: (1) Future events depending on a free cause; and (2) the secret thoughts of the heart. These depend on God, and on God and ourselves respectively; and without a special revelation from God or from ourselves they cannot know the one nor the other. Angels, indeed, owing to the acuteness of their intellect, may foretell future events which depend on physical causes, and with tolerable accuracy. They are acquainted with the mechanical laws that govern the universe, the properties of bodies and their mutual relation. They can, therefore, without much fear of error, foretell events depending on the natural forces of the earth, such as hurricanes and tempests, and the consequences of such events, such as the loss of human life. The constitution of man is also known to them; they can therefore foretell the probable length of his life and the future probable state of his health. But future events depending on free causes are wholly beyond their knowledge. The mind and will of man are subject to God only. The prediction, therefore, of such events has always been regarded as a true miracle.

I have said that angels can foretell with sufficient accuracy events that depend on natural causes. There is, however, one important exception. The whole universe is



subject to God. He can, therefore, if He so will, produce in any instance He chooses a modification in the operation of natural causes, so that they may not produce their natural effects. This is hidden from the angelic mind. What intelligence of angel or man could have foreseen unless God revealed it that the wild beasts in the den would lay aside their natural ferocity and leave His prophet Daniel untouched? In such cases and in the case of future events that depend on free agents any prophecy on the part of angels can be nothing more than a shrewd guess, and if put forward as unqualified truth, cannot but proceed from spirits of an immoral nature. No creature solicitous for truth can enunciate a position as absolute truth of which he cannot possibly have accurate information. Utterances in cases such as we now contemplate remind us of the hexameter verse in which the Pythian prophetess at Delphi expressed her oracles—oracles which we remember were capable of more than one interpretation.

I have reserved for special treatment the second exception which I made in the scope of angelic knowledge, viz., the secret thoughts of our hearts. Amongst ourselves one man may manifest to another his inmost thoughts; it is not sufficient that he would be merely willing to lay bare his soul. No matter how he may so will, his soul is surrounded by a strong breastwork of fortification. The envelope of the body is around it. To make known his thoughts he must employ signs by which he manifests his ideas, such as words or gestures. In the case of angels, amongst themselves there is no such hindrance. The one thing necessary to establish communication between angelic intelligences is that one should be willing to make known his thoughts and the other willing to consider them. The same may be predicated as regards our communication with pure spirits. To them the body is no obstacle. If we wish to make our secret thoughts known to an angel all that is necessary is we should be willing to do so and that the angel should direct his attention to them.

But what of the converse? If an angel wished to manifest his thoughts to us can we read his mind? By no

means. As I have frequently stated, we cannot exercise our mental faculties without the concurrence of our sensitive nature ; we must have material images or phantasms which produce a modification of our brains representing the objects to be considered. Here, however, we may anticipate what will be considered later, namely, angelic power. The modification of our brains, which is essential to the acquisition of ideas corresponding to extrinsic objects may be produced by an angel's power. Their power over matter, as we shall see, is immense. Nevertheless, although this is so, they may be ignorant of our thoughts. Here, again, our free will interferes. Thought is above matter, and although we make use of sensible images to acquire knowledge our free will permits us to give to the same organic modification many different applications, so that it is beyond the power of the subtlest angel's mind to know against our will what is our purpose or the drift of our mental operation.

The moral state of our soul is also hidden from them. They cannot, of their own knowledge, know whether we are worthy of love or hatred. This is beyond their natural capacity. Accordingly, without revelation from God, they cannot know the just from sinners, because our minds and hearts are, without our permission, strongholds impregnable to angelic shrewdness.

But should this permission be given by God, how extensive becomes angelic knowledge. Not only distant events, but hidden facts and future intentions, become known to them. They in turn may communicate this knowledge to man, and thus the most extraordinary revelations may take place through their agency. It thus follows that not one of the phenomena of spiritualism, whether of a psychological or of an intellectual nature, but may be accounted for by their intervention. And as we shall see when we come to discuss their power over matter that some of the spirits are good, and are called angels, and others depraved, which we call demons, it will be seen that to the latter alone the phenomena of spiritualism can be attributed.

## ANGELIC POWER

The Fathers of the Church teach that the physical world, together with its several material and component parts, are under the administration of spiritual beings. They ground this doctrine on the general principle of the order of the universe. In human society itself there is a diversity of offices, and the inferior is subject to the superior. So to push the analogy to its limits the material world itself is subject to the spiritual. This was not, however, God's object in the creation of pure spirits. They were created to reflect His own perfections and to give Him glory; but this they do by ruling, subject to His providence, the material world. The consideration of our own nature confirms this argument. We are composed of matter and spirit, and the operations of the former are governed by the latter. It naturally follows that the material world is governed by the spiritual. Tradition, both ecclesiastical and philosophical, has recognized a power of superintendence in the angelic spirits over the elements of matter. Here, however, we must be careful to distinguish the teaching of Catholic philosophy from Kant's well-known theory regarding the human soul. Kant taught that the operations of the human soul are necessarily imperfect; that with the tendency to holiness there is invariably allied a tendency in the opposite direction—that virtue implies a struggle. There must be, then, a world beyond the grave in which 'endless progress' takes place, and with the immaterial beings of this world the human soul is in close connexion, receiving from them, and imparting to them, reciprocal impressions of which we are, for the most part, unconscious.

From this theory—it is supposed, at least, their views are closely allied with it—many spiritualists have concluded that the visible world around us is the material work of countless spiritual beings, which collectively make up 'the soul of the universe.' Overawed and confounded by the almost infinite variety of organisms in plant life, they thought it impossible that four simple elements, like hydrogen, oxygen, carbon and potassium, should so combine as to form these innumerable varieties of species. They con-



ceived, then, that the immaterial beings of the world beyond were at work, each individual of that countless host producing his own special wonder. But the teaching of Catholic theology is widely different from all this. Matter, itself inert and without quality, received from God, in the beginning, its first impulse and was endowed with these qualities the operations of which, in the course of time, under suitable conditions, would account for all the future changes in the universe. The world is thus ruled by God's action as by a first and universal cause of life and motion. By His power was given to the elements of this world to exercise on each other, when brought into contact, a moving influence, and in this way His action is diversified according to the agents that are at work. Nothing forbids us, of course, to acknowledge among the natural factors of material changes 'natural selection' or the 'struggle for life.'

But we cannot account for the harmony and equilibrium of the world unless we acknowledge, in this conflict of the elements, a supreme force emanating from God, and exercised according to laws established by Him. The visible world was made for man's use and benefit. From it he was to be led to the knowledge and love of its, and his own, Creator. But the ordinary course of the world is insufficient for this purpose. This fact, which we learn partly *a priori*, partly by experience from the actual condition of the world previous to Christ's coming and the vain attempts of the nations to arrive at a proper conception of God's nature, or of the worship due to Him, or of their duties towards one another or towards themselves, teaches us the necessity of God's revelation. There must be, then, derogation from the order of nature in order that we may be led to acknowledge the fact of supernatural revelation. And here precisely is the way open for the employment of angelic power; for God entrusts the execution of these derogations to the spiritual creation of His hands, and thus they become the minister of God in the truest sense, for the manifestation of His glory. Thus it is that the Fathers of the Church speak of the operations of particular angels placed over plants and animals, and even over man.

St. John, in the Apocalypse, speaks of the 'angel of fire' and the 'angel of the waters.' It is of faith that angels are appointed as guardians over man, and it is the common teaching of theologians that this doctrine is so comprehensive in its scope as to imply an individual angel for every human soul, at least from birth to death. Such is the commonly received teaching of our schools. All this power over matter was given by God, to the end that they might promote God's glory. They are, however, like ourselves, free to deviate from the right path and to make use of their natural powers for the destruction of God's kingdom. This we know that many of them unluckily did, and it is this liberty they exercise in the production of spiritualistic phenomena.

The power of spirits over matter, however great, is limited. They cannot create matter, nor can they produce changes in matter of such a nature as to involve substantial alteration. This sort of alteration is exemplified in the destruction of wood by fire. Ashes are not wood; a substantial change has taken place, and such a power is beyond that of any spirit, however powerful. No angel, therefore, can produce even the tiniest living cell, and if a spirit is found at times to produce living things in a manner resembling instantaneous creation, or cause any substantial intrinsic change, this is really due to their skill in bringing to maturity the germs of those organisms previously chosen with superhuman discernment. But if he can do neither of these things he certainly can with a marvellous rapidity transfer bodies from place to place. All this power is relative. Some angels possess it in a higher degree than others, so that while one may be able to move the whole earth, another may be able to move a smaller planet. Theologians lay it down as certain that angels can move bodies, i.e., from place to place. 'Cujus ratio,' says St. Thomas,<sup>1</sup> 'quia mobile secundum locum non est in potentia ad aliquid intrinsecum sed solum ad aliquod extrinsecum scil. ad locum.' This, however, is not to be understood as to signify that angels can impart to any

<sup>1</sup> 1 p., q. 110, art. 5.

body whatever any kind of motion, but only that they can move bodies immediately with a power proportioned to their nature. Hence St. Thomas concludes that angels cannot move the whole earth.<sup>1</sup>

The inability of angels either to create matter or to produce in matter any intrinsic change is due to the dissimilarity of their nature. Like produces like, and a material agent can, by acting on another of like kind, produce a substantial change, as when hydrogen and oxygen produce water. But the nature of angels is different from that of matter and superior to it, and it is in the superiority of their nature over matter that the source of their power of transference of material elements from one place to another is to be sought. To deny that spirits, whether angels or demons, can themselves move from place to place would be to run counter to the whole teaching of Scripture. Of the power of even the latter in this respect we have proof in Job (ii. 7), when, in answer to the Lord's question, Satan replied: 'I have gone round about the earth and have walked through it.' Theologians teach against Durandus, who is alone in his opinion, and whose teaching is pronounced 'temeraria' by Valentia, that angels can be in a place 'definitive.' There are in all three modes of existing in a place spoken of by theologians. 'Circumscriptive,' which is peculiar to material bodies, and which means that a body is so in a certain place, that it is not in any other, and is wholly in that place to the exclusion of all others; 'definitive,' which means that a certain thing is so in one place that it is not in another, and yet it is not extended in that place so that it is not only wholly in that place, but in each part of it; 'inadequate et cum excessu,' which is peculiar to God alone, who is not circumscribed by any place.<sup>2</sup>

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<sup>1</sup> 'Idem quidem est naturalis motus totius et partis, non tamen eadem vis sufficit ad movendum totum quae movet partem. Unde licet daemones possint movere aliquam partem terrae non sequitur quod possint totam terram quia non est proportionatum eorem naturae ut mutant ordinem elementorum mundi' (*De Malo*, q. 16, art. 10, ad 8).

<sup>2</sup> 'Diversimode,' says St. Thomas (1 p., q. 52, art. 2), 'esse in loco, convenit corpori et Angelo et Deo. Nam corpus est in loco, circumscriptive



But if we were to go further and enquire what is the 'ratio formalis' of the presence of an angel in a place, theologians differ widely in their opinions. Suffice it here to note that the opinion of St. Thomas, whose followers indeed are divided in their interpretation of it, is perhaps the most common, viz., that the 'ratio formalis' of an angel's presence in any one place is the application of his power to that place. And being thus in one place he cannot be in another at the same time. He may, however, change places instantaneously by transferring his action or power from one specific point to another without its being necessary for him to pass through intermediate places or objects. And the fact that an angel's power is determined to a specific place or object means that he fills that place to the exclusion of every other angel. That place becomes his domain without, however, his substance becoming united to it, as our soul is to our body, and without the place or object being assumed by the angel unto the unity of his person or changed into his nature. And in this occupation by an angel of a particular place or object, whether mineral, plant, or man, we find the explanation of that marvellous control of some material objects, on the part of unseen spirits, which has baffled the explanation of scientific men. St. Bonaventure describes this possession, and at the same time proves its possibility in a few words:—

*Daemones per naturam suae subtilitatis et spiritualitatis possunt quaecumque corpora penetrare et in eis subsistere; ratione autem suae potestatis possunt ea corpora commovere et conturbare; sicut, enim, spiritus spiritui penetrabilis esse non potest sic nec corpus potest resistere spiritui; ideo daemones possunt corpora humana intrare, possunt etiam ea vexare nisi prohibeantur a superiori virtute.*<sup>1</sup>

It being once admitted that an angel can transfer bodies from one place to another, and with a marvellous rapidity,

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*quia commensuretur loco; angelus autem non circumscriptive cum non commensuretur loco, sed definitive quia ita est in uno loco quod non in alio; Deus autem neque "circumscriptive" neque "Definitive" quia est ubique.'*

<sup>1</sup> In 2 dist. 8, p. 2, a. 1, q. 1.

it follows that he can by that means produce a great number of intrinsic changes, both accidental and substantial. There is hardly any limit to the number of such changes that can take place through local movement. It is by local movement that the food that we eat is changed into other substances. It is by local movement that the seed planted in the earth grows into a tree. If chemical analysis takes place, it is primarily due to the union of those elements the interaction of which produce these marvellous phenomena which we witness. Angels possess a vast knowledge of both physical and chemical laws, and their power is of such vast range that there are hardly any phenomena in the physical world which they cannot produce.

They can transfer even heavy bodies from one place to another. They can keep them suspended in the air. They can produce sweet music without the aid of human instrument. They can bring together clouds and cause lightnings and thunderbolts, burst rocks asunder. They can cause a pen to write, by itself, as it were, and intelligible sentences. They can even suspend, to a certain extent, the functions of life, stopping the breath or accelerating the circulation of the blood, and cause seeds planted in the earth to develop in a marvellously short period of time, and produce leaves and blossoms, and even fruit. They can, to all appearance, form the bodies of animals, and even of men, and in them walk, and move and act and speak. They can cause the bodies thus assumed to eat and breathe and utter intelligible sentences, and accompany those various actions by gestures peculiar to a real living person. The history of Tobias affords a striking proof of what Catholic theology teaches. But it should be remembered that all those actions which, in the case of living beings, are real vital actions, are not at all vital in the case of angels. The bodies they assume are not part of their nature, but are external to them, and moved by them, as the brush is moved by the painter's hand. Hence the action of eating performed by spirits evoked in *séances* is apparent, not real, and consists in the reduction into minute particles of the food they take and its distribution through the body.

'When I was with you,' said the angel to Tobias (cxii. 18, 19), 'I indeed appeared to be eating and drinking, but I made use of an invisible food and of a drink which cannot be seen by men.' Their eating, therefore, is not only different from ours, which is accompanied by nutrition, but also from that of our Lord after His resurrection, Who really partook of food, although not necessary to keep Him in life.

As to the extent of their power over man, it, too, is marvellous. Man is a composite being. He has a body composed of material elements. He has a soul, and is, therefore, a creature endowed with sensitive and intellectual powers. An angel has the same power over man, viewed as a material being, which he has over every other material thing, such as a stone or a plant. He can lift or transform him from one place to another. An angel carried Habacuc from Judea to Babylon (Dan. xiv.). And this power is common to both good and bad angels with, however, this marked difference: A good angel never so acts except by God's command. For a bad angel God's permission is sufficient. God's command is always given for a good end. God's permission, in itself good, and so ordained, implies in the angel who uses it the exercise of personal responsibility. In the first case such actions are always miracles. In the second they are mere imposture and evil-doing,<sup>1</sup> and it is when they are allowed this power to its fullest extent over man's body, so as to sway and dominate him, that the phenomenon of 'obsession' takes place.

It is more difficult to state exactly how far Angelic influence can be exercised over man as a sensitive and

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1 'Illae, vero, transmutationes,' says St. Thomas (q. 114, a. 4, ad 2), 'corporalium rerum quae non possunt virtute naturae fieri nullo modo operatione daemonum, sec. rei veritatem, perfici possunt; sicut quod corpus humanum mutetur in corpus bestiale. Etsi aliquando, aliquid tale operatione daemonum, fieri videatur hoc est secundum apparentiam tantum. Quod quidem, dupliciter contingit 1° ab interiori—quod daemon potest mutare phantasiam hominis ut aliquid videatur aliter quam sit; 2° ab exteriori—cum, enim, ipse possit formare corpus ex aere, cujus-cumque formae et figurae, ut in eo visibiliter appareat potest eadem ratione circumponere cuicumque rei quamcumque formam corpoream ut in ejus specie videatur.'



intellectual being. As regards our senses—both internal, like the imagination, and external, like those of taste and touch—an angel can act directly upon them. This is due to the fact that our nerves, which are material elements, are subject, as regards local motion, to angelic influence, and the sensitive perceptions of our internal and external organs depend on the peculiar motion of that mysterious nervous system. It follows from this that we can hardly conceive how wide is angelic power over our sensitive nature. A modification of the retina may render it impossible for a man to distinguish colour, and as everything looks yellow to the jaundiced eye, to the feverish tongue every taste is bitter. Physiological science is yet in its infancy, but the construction and the operations of our organs of sense and imagination are perfectly known to the angelic mind, so that there is hardly any limit to the extent of their power over our animal nature. I have said hardly, and advisedly. For great as is their power, it is limited. No angel can impart to our imagination a phantasm of an object placed beyond the reach of our external senses. These are the natural sources of those phantasms, and hence no angel, however powerful, can impart to a man born blind the conception of colour.

An angel can also illuminate our intellects—certainly in the natural way, by bringing before us what he wishes to know by means of these sensible images through which we acquire knowledge. But he cannot so influence our will as infallibly to make it do his bidding. This is a power which belongs to God alone. But an angel's power is confined to external influence. This, however, is far-reaching. He can present the object he desires us to embrace in its most enticing form. If he is viciously inclined then he has it in his power, in no small way, to harm us. 'Our wrestling,' St. Paul says, 'is not with flesh and blood, but with principalities and powers' (Eph. vi. 12).

Extensive, therefore, as angels' knowledge is, and far-reaching as is their power over matter, each has its limits. They cannot change the general order of nature. In speaking of miracles, theologians generally distinguish

three kinds. The first is what they call 'quoad substantiam facti,' such as the destruction of the essential properties of matter, as when fire burns without consuming. This happens in the case of the bush in which God appeared to Moses (Exod. iii. 2). Such miracles surpass all angelic power. The second kind theologians usually denominate miracles, 'quoad subjectum,' i.e., works which are not above the power of nature but which nature never produces, except in subjects naturally disposed for the operations, such as the giving of sight to a blind man. The third kind comprises miracles, 'quoad modum,' which only so far excel the powers of nature as that the effects is produced in a way different to the ordinary, such as restoration to health without medicine. It is in this third class that angelic power finds full scope. Not that these operations are then always miracles. It is only when they are produced by good angels under God's command that they deserve the name. But when angels, in their production, act of their own accord, merely with God's permission, the work does not exceed the powers of nature, and, however wonderful, is not miraculous.

We have now seen what angelic knowledge is, and to what extent their power reaches over the material world, and over the sensitive and intellectual nature of man. Now, if we take the trouble to examine one by one the reported phenomena of Spiritualism, in so far as they are genuine, there is not one of them, whether of a mechanical, physiological, or intellectual kind, which cannot be produced by angelic intervention. The apparently spontaneous production of sound or light or heat; the transference of even heavy bodies from one place to another; the production of articulate speech and intelligible writing; instantaneous production of plants; the formation of human bodies with all appearances of life and motion; the manifestation of hidden and distant events; the infusion into a medium of unknown tongues; these do not surpass the power of angelic spirits, and to them they may be attributed.

We have now seen the nature of the spiritualistic

phenomena. They surpass, without doubt, the powers of the visible elements of this world. Our knowledge of the laws of nature may be limited, but it is sufficient to demonstrate to us, and this is admitted by spiritists themselves, that some of the phenomena can only be produced by immaterial causes. Now philosophy indicates the possibility and revelation teaches the fact that such causes, both good and bad, exist and possess greater power than man possesses.

In the beginning God brought forth out of nothing myriads of celestial spirits for His own glory. He adorned them with the most precious qualities of mind and will. He adorned them, too, with divine grace, and thereby made them His divine heirs, and all this preparatory to their earning possession of His own realm of glory. But He left them free. And while the greater part persevered in submission to God's ordinances others took a different path: It is of faith that our last end cannot be reached without God's help. But the spirits that rebelled thought otherwise, and by this one act of apostasy they were excluded for ever from eternal bliss. And as the angels who persevered were at once rewarded and for ever confirmed in good, so the wicked were punished by being allowed to remain irrevocably obstinate in evil. At once dispossessed of divine grace they became His bitter enemies—their aim being to set up their kingdom against His. God might, at once, have condemned them to hell, but He in His wisdom 'which reacheth from end to end mightily,' chose otherwise; and He has decreed that a certain number of them should remain on earth to fulfil His own designs of purifying the good and of sifting the chaff from the corn.

Their natural powers, however, were left unimpaired, and we have seen how extensive these are—the marvellous penetration of the angelic mind and their power over the elements of matter. From all this we can deduce how powerfully they can assail us; but all this is for the purpose of urging us to turn to God for help, that we may by the victory gain, like the good angels, our eternal glory.

To God Himself the phenomena of Spiritualism cannot be attributed. It would be blasphemous to suppose that He



could intervene in practices that are not sometimes unattended with gross immorality. Neither can they be attributed to the good angels. Their works are always ascribed in God's word to God Himself.

Nor can they be the work of the disembodied souls. It might be conceivable, indeed, that the supposed manifestations of separated souls, though directly impossible, may be brought about indirectly by the evil spirits representing those souls and acting in their name. This, I say, might be conceivable, considering what we have written in regard to angelic power. But it is manifestly impossible that the evil spirits should act as mediums for either the blessed in Heaven or the souls in Purgatory. These are God's special friends, jealously guarded by Him. And it is inconceivable that He should permit them to be represented by His malignant foes. And to what purpose would those spirits represent, of their own accord, the souls of the damned? Not surely to urge us to avoid sin, to promote which is the motto blazoned on their banner. To be sure it is not impossible that they should do so. But their mode of operation is far otherwise, and hence it is that it is persons that have been conspicuous during life for personal holiness, like the late Cardinal Vaughan, that have been made to appear at *séances*. And to confirm our opinion in regard to this lying manifestation, what more unlikely than that Cardinal Vaughan should depute an evil spirit to act as his spokesman and to disown, through him, practices and doctrine upheld in life.

It is not impossible for God Himself to act through evil spirits in His messages to mankind. But in that case the action would be a true miracle, and could only take place in circumstances precluding all possibility of fraud.<sup>1</sup>

We must conclude that spiritualistic practices do not place us in communication with the souls of the damned through the devil's agency. And it is impossible that they

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<sup>1</sup> The word *σημειον*, one of the words in the Greek text used to translate the Latin 'miraculum,' means a 'sign,' as an appeal to the intelligence, and expresses the purpose of a miracle. A miracle is a factor in the Providence of God over men. Hence the glory of God and the good of men are the primary causes of every miracle' (*Cath. Encyc.*, 'Miracles').

should represent the souls of the saints either in Heaven or Purgatory. These manifestations, then, are pure fraud, and nothing more. This being so it becomes the manifest duty of everyone who has a sense of his own dignity and of his soul's safety to shun those practices which lead to communication with God's avowed enemies. 'Have no fellowship with the unfruitful works of darkness, but rather reprove them' (Eph. v. 11).

P. J. MANLY.

# Notes and Queries

## THEOLOGY

### THE ESSENCE OF THE MARRIAGE CEREMONY

IN the course of his learned judgment in the Ussher case the Lord Chief Justice is reported to have said :—

I think the substance, the essence, of the marriage was constituted by the affirmative answers given to the questions of the priest, by the mutual consent elicited by these questions. I think the Latin word 'vis' is equivalent to 'do you consent?' and the word 'volo' to the words 'I do,' and that all the rest of the formula is merely declaratory, confirmatory, symbolical, and ceremonial. If this be so, as I think it is, there was an absolute, unconditional contract of marriage; and it would seem to me that this view is borne out by the Roman Ritual, which consists merely of the affirmative answers given to the priest. The questions and answers are identical in language with the language, the questions and answers put in this case. [For forms of Roman Ritual, see I. E. RECORD, April, 1912, page 400, in footnote.] But assuming this view, though supported by the opinion of many canonists, not to be the true view, and assuming that the substance, the essence, of the marriage is to be found later on in the formula used, I think the words 'verba de praesenti,' words used in the present tense according to the directions given in the Prayer Book, 'I take thee to my wedded wife, etc.,' and 'I take thee to my wedded husband, etc.,' used respectively by the contracting parties, would be a sufficient expression of their mutual consent to constitute a marriage. This seems to have been the opinion of that most distinguished Judge, Sir James Willes. See his great judgment in *Beamish v. Beamish*, upon which the language of eulogy was exhausted.

In the April number of the I. E. RECORD we adhered to the opinion that the essence of the marriage ceremony is found in the affirmative answers given to the priest, and that the subsequent part of the ceremony is merely a confirmation



of the consent already given and an indication of the primary effect of that consent, viz., the matrimonial state in which the parties have mutual conjugal rights and obligations until death. In view of the difference of opinion on this point, to which the Lord Chief Justice referred in his judgment, we think it well to enter somewhat more fully into the question than the purpose of our former discussion demanded. In order the better to explain the relations between the Roman Ritual and our Ritual it is useful to give them concurrently :—

## OUR RITUAL.

*Parochus igitur Matrimonium celebraturus . . . de consensu in Matrimonium interroget, utrumque singillatim in hunc modum vulgari sermone :*

N. Wilt thou take N., here present, for thy lawful wife (husband), according to the rite of our holy Mother the Church? *Respondeat sponsus (sponsa) : I will.*

*Deinde detur foemina a patre suo vel ab amicis suis . . . et vir eam recipiat in Dei fide, et sua servandam . . . et ad hunc modum, docente Sacerdote, det ei fidem per verbum de praesenti dicens :—*

I, N., take thee, N., to my wedded wife, to have and to hold, from this day forward, for better, for worse, for richer, for poorer, in sickness, and in health, till death do us part, if holy Church will it permit : and thereto I plight thee my troth.

## ROMAN RITUAL.

*Parochus igitur Matrimonium celebraturus . . . de consensu in Matrimonium interroget, utrumque singillatim in hunc modum vulgari sermone :*

N. Vis accipere N., hic praesentem in tuam legitimam uxorem (in tuum legitimum maritum) juxta ritum sanctae matris Ecclesiae? *Respondeat sponsus (sponsa) : Volo.*

*Nec sufficit consensus unius, sed debet esse amborum, et expressus aliquo signo sensibili, sive fiat per se, sive per procuratorem.*

*Mox manum retrahendo, iterumque jungendo, dicat mulier, docente sacerdote :*

I, N., take thee, N., to my wedded husband, etc.

*Data sic utrimque fide junctionisque dexteris, dicat Sacerdos :*

Ego conjungo vos in matrimonium, in nomine Patris, et Filii, et Spiritus Sancti. Amen.

*Mutuo igitur contrahentium consensu intellecto, Sacerdos jubet eos invicem jungere dexteris, dicens :*

Ego conjungo vos in matrimonium, in nomine Patris, et Filii, et Spiritus Sancti. Amen.

The Ritual, published in Baltimore, with the Imprimatur of Cardinal Gibbons, first gives the questions and affirmative answers, then gives a translation of the phrase of the Roman Ritual : ' nec sufficit consensus unius,' etc., and adds

In places where it is the custom, the man and woman pledge themselves each to the other as follows, repeating these words after the priest : The man first says : ' I, N. N., take thee, N. N., for my lawful wife,' etc.—the phrase ' if Holy Church will it permit ' being omitted.

The question now arises : in which part of our Ritual is the essence of the marriage to be found ? Is it in the affirmative answers to the questions of the priest ? Or is it in the phrase : ' I, N., take thee, N., to my wedded wife (husband) ' ? While not denying the probability of the other opinion, we believe that the substance of the contract is to be found in the affirmative answers for the following reasons :—

The Roman Ritual has nothing to correspond with the phrase ' I, N., take thee, N., to my wedded wife,' and has the essence of the contract in the affirmative replies. The American Ritual, too, evidently looks on the affirmative replies as containing the essence of the contract, since it regards the subsequent clause as one that need be recited only where it is customary to do so. Now, our Ritual has

precisely the same answer, 'I will,' as the American Ritual, and apparently purports to follow the Roman Ritual in this part of the ceremony, as can be seen from the fact that the rubric immediately preceding the interrogation is the same in both Rituals. The 'consensus in matrimonium' that is elicited by the interrogation of the Roman Ritual is the same 'consensus in matrimonium' which is elicited by the interrogation of our Ritual. Hence 'wilt thou?' and 'I will' have the same meaning as 'vis' and 'volo,' and signify, respectively, 'Do you consent?' and 'I do consent.' We seem to have, then, in these words a consent to a present and not to a future marriage.

But, it may be said, according to the historical authorities<sup>1</sup> on the evolution of the marriage ceremony, the interrogations with the affirmative replies formerly were the betrothals which took place some time before the marriage ceremony proper, and consequently cannot now be looked on as anything more than a consent to a future marriage. To this argument the reply seems to be that what was once a ceremony of betrothal has now become a ceremony of marriage; what was formerly a consent to a future marriage has become in the course of time a consent to a present marriage. This happened in the case of the ceremony of the Roman Ritual, in which, according to all authorities, the matrimonial consent is contained in the replies to the interrogation of the priest; and our Ritual purports to follow the Roman Ritual in regard to these interrogations and answers.

Does not the Rubric preceding the phrase 'I, N., take thee, N., to my wedded wife,' show that in this clause the matrimonial consent is extenuated? The parties are directed to pronounce the words 'per verbum de praesenti,' and does not such a direction imply that in this place the consent to a present marriage is given? Before replying we may remark that in his article on 'The Ritual of Marriage' in the *Catholic Encyclopedia*, Father Thurston, S.J., surmises that this portion of the matrimonial rite is the

<sup>1</sup> Cf. Palmer, *Origines Liturgicae*, ii. p. 214; Duchesne, *Christian Worship*, p. 430.



remnant of an old betrothal ceremony, so that it does not seem to be absolutely certain that this rite formerly belonged to the marriage ceremony proper.

The Rubric referred to says : ‘ *fidem ei det per verbum de praesenti*,’ and the Protestant Ritual says :—

Then shall they give their *troth* to each other in this manner. The minister, receiving the woman at her father’s or friend’s hands, shall cause the man with his right hand to take the woman by her right hand, and to say after him as followeth : ‘ I, N., take thee, N., to my wedded wife,’ etc.

From this we are inclined to conclude that the ‘ faith ’ which is to be given ‘ *per verbum de praesenti* ’ is not matrimonial consent but a promise of fidelity until death, a promise which is summarized in the phrase : ‘ and thereto I plight thee my troth.’ A promise of this kind should be expressed ‘ *per verbum de praesenti*,’ since the parties are already man and wife ; ‘ I shall promise fidelity,’ instead of ‘ I do promise fidelity,’ would be altogether out of place in the case of people who are already married. Moreover, even if it were admitted that ‘ *det ei fidem per verbum de praesenti* ’ referred not to this promise of fidelity but to the matrimonial consent, it might reasonably be said that there was question of a renewal of matrimonial consent in an integral, though not essential, portion of the rite. Such renewal of consent could be made only ‘ *per verbum de praesenti* ’ from the nature of the case. Thus later on in the ceremony the bridegroom says : ‘ With this ring I thee wed,’ yet it cannot be said that this phrase is of the essence of the matrimonial consent, though it is expressed ‘ *per verbum de praesenti*.’

Our argument is strengthened by a statement reported to have been made by the Lord Chief Baron in his judgment. He quotes Maskell’s *Monumenta Ritualia Ecclesiae Anglicanae* for a Rubric in the Sarum and York rites to the effect that the ‘ *traditio uxoris* ’ which was accompanied by the words ‘ I, N., take thee, N., for my wedded wife,’ etc., was to be omitted during the ‘ close times,’ which were from Advent to the Octave of the Epiphany and from Septuagesima

Sunday to the Octave of Easter. Portions of our Ritual, and in particular the part concerning the giving of the bride to the bridegroom, with the accompanying ceremonial, come down from those old English rites, and cannot now be considered as more important than they were in the original in which they were accidental, as appears from their omission during certain seasons.

For the foregoing reasons we believe the opinion to be more probable which holds that the essence of the marriage contract is contained in the affirmative answers to the interrogations of the priest. But even if the other view mentioned by the Lord Chief Justice were right, our replies to the three questions which we discussed in the April issue of the I. E. RECORD would need no substantial modification.

#### SECRET MARRIAGES AND REGISTRATION

REV. DEAR SIR,—In the case of a secret marriage when the parties have been cohabiting and supposed to be married, is there an obligation on the pastor to report it to the pastors of the places where the parties were baptized? Should he, at least, send the record to the Chancellors of the respective dioceses?

SACERDOS.

In the case of a 'secret marriage' in the technical sense, i.e., when the marriage rather than the time of the marriage is to be kept a secret, all the registrations must be made in secret registers kept by the Bishop, as is laid down by Benedict XIV. In other cases the law of the Church supposes that the registrations be made in the ordinary registers unless there be some excusing cause. In the case mentioned by 'Sacerdos' there is nothing which excuses from transmitting the record of the marriage, though prudence and charity might demand that the various registrations be made in the private rather than in the public registers. Sometimes the *fact*, as distinct from the *time*, of the celebration of the marriage can be entered in the public registers without danger of defamation, and in such cases there is no

reason why the law of registration should not so far bind. In practice we would advise the pastor to transmit the record of the marriage to the Chancellors of the respective dioceses where the contracting parties were baptized. This would fulfil the regulation of the decree *Ne Temere*, and would ensure that due precautions are taken against danger of defamation.

#### CLANDESTINITY AND MIXED MARRIAGES IN IRELAND

REV. DEAR SIR,—Noldin, in the seventh edition of his *Moral Theology*, explaining the provisions of the *Ne Temere* decree, states that in Ireland, by virtue of the special privilege granted March 19, 1795, a mixed marriage (between a Catholic and baptized non-Catholic) even though clandestine, is valid. Is he correct in his interpretation of above decree?

SACERDOS.

According to the decision of the Sacred Congregation of the Council given on February 1, 1908, the annulling law of clandestinity applies to mixed marriages in Ireland, notwithstanding the declaration sent to the Irish Bishops in 1785 (not 1795). The seventh edition of Noldin was published before the publication of this decision. Noldin, in company with many Continental scholars, held that Ireland came under the excepting clause of the decree *Ne Temere*: 'Nisi pro aliquo particulari loco aut regione aliter a S. Sede sit statutum.' In the new editions of his valuable treatises Noldin has the true teaching that now mixed marriages in Ireland are affected by the law of clandestinity.

J. M. HARTY.



## CANON LAW

## SUPPORT OF SUSPENDED OR DISMISSED ECCLESIASTICS

REV. DEAR SIR,—Please say if priests who have been dismissed or suspended or otherwise removed from missionary work have any claim to support from ecclesiastical sources. I am speaking of complete, not partial, suspension: I suppose there can be no doubt regarding the rights of a cleric suspended *ab officio* but not *a beneficio*. If, in ordinary cases, there be a claim, is it one in strict justice?

CLERICUS.

Though the prescriptions of general Canon Law on the point raised by our correspondent are meagre and indefinite, and though canonists are far from being in perfect agreement on the subject, it is fairly clear that priests who have been dismissed or suspended from office and benefice have no strict right in justice to be supported either from the revenues of the office they held or from the general funds of the diocese. The principle on which the Church law is based was first laid down by St. Paul: 'Know you not that they who work in the holy place eat of the things that are of the holy place: and they that serve the altar partake with the altar? So also the Lord ordained that they who preach the Gospel should live by the Gospel.'<sup>1</sup> Even on the most liberal interpretation of the principle, it can hardly be said that it extends to those who, through their own criminal conduct, have been deprived of the right to 'preach the Gospel' and 'serve the altar.' To ensure them in all circumstances a right to support from ecclesiastical sources would be to lessen the deterrents to unworthy conduct, if not indeed to put a premium on crime.

To quote one or two of the canonists. Ferraris, in his *Bibliotheca*, on the word '*alimenta*,' states that 'clerics who, having been ordained on the title of benefice, are deprived of those benefices have no right to secure maintenance from their revenues, even though they have no means of support from other sources';<sup>2</sup> and cites in support of his

<sup>1</sup> 1 Cor. ix. 13, 14.

<sup>2</sup> Nn. 93, 94. 'Nullum jus habent pro consecutione alimentorum . . . quamvis non habeant aliunde quo se alere possint.'

statement four decisions of the Roman Congregations, all based on the principle that clerics might, for crimes committed, be removed from their benefices and deprived of all claim to even a portion of their revenues.<sup>1</sup> Half a century before, Monacelli had taught the same. A writer had put himself the question, 'whether a cleric, deprived through his own fault of a benefice to which he has been ordained, ought to receive his maintenance from its revenues?' and had answered 'in the affirmative, if he has no other means of support.'<sup>2</sup> Monacelli took him severely to task, and declared that 'the teaching had no foundation in law,' basing his statement again on the decisions of the Roman Congregations and on the fact that the texts from the *Corpus Juris* on which his opponent relied had, in so far as they established any kind of right at all, no bearing on the question of dismissal and were to be understood solely of suspension.<sup>3</sup> Later canonists for the most part are equally strong in their statements.<sup>4</sup> But as they are not entirely in agreement, and as positive law is in any case more satisfactory than any private opinion, it may be as well to confine ourselves to the decrees of our own Councils or of those in America where the circumstances are pretty much the same. The Second Plenary Council of Baltimore laid down a principle covering suspension as well as dismissal: 'Priests,' it stated, 'to whom the exercise of the priesthood has been forbidden by a sentence of the Ordinary have no right to seek support from him since they have, through their own fault, rendered themselves incapable of doing missionary work';<sup>5</sup> and the Propaganda, in its Instructions *Quamvis* (July 20, 1878)<sup>6</sup> and *Cum Magnopere* (1884),<sup>7</sup> has retained the regu-

<sup>1</sup> In *Firmana* (May 30, 1665); *Romana* (March 18, 1684); *Vercell.* (December 15, 1690); *Ausculana* (August 13, 1707).

<sup>2</sup> 'Respondetur affirmative si non habeat aliunde' [apud Monacelli, *Formalarium*, t. 4 (supp. ad t. 2), n. 410].

<sup>3</sup> Monacelli, *ibid.*: 'Hæc doctrina nullum in jure habet fundamentum.'

<sup>4</sup> Cf., e.g., Bened. XIV. *De Syn.* ix. c. 6, n. 3; Schmalzgrüber, *Jus Can. Univ.* v. t. 37, n. 135; Lucidi, *De Visit.* c. 3, s. 12; Wernz, *Jus Decr.* ii. 136, etc., etc.

<sup>5</sup> N. 77. 'Sacerdotes quibus . . . sacerdotii exercitium interdictum fuerit, nullum jus habent ad sustentationem ab eo [i.e., Ordinario] petendam.'

<sup>6</sup> Ad Dubia, s. I.

<sup>7</sup> Art. 45.

lation. The Third Plenary Council (1884) stated in its preamble to further regulations (quoted later on) that

priests who are debarred through their own fault from exercising sacred functions cannot, on the score of justice, demand that the Bishop make provision for their temporal necessity: for they who are ordained on the title of the mission are to be supported by the mission, so that they alone who work in the holy place are to eat of the things of the holy place, and they alone who serve the altar participate of the (things of the) altar, and they alone who announce the Gospel are to live by the Gospel.<sup>1</sup>

And, to come to more recent times, the Provincial Synod of Tuam, held in August, 1907, stated that 'priests who through their own fault are deprived of the exercise of the sacred ministry have no right to get support from the Bishop or out of the money collected for the use of invalid priests';<sup>2</sup> and the statement is repeated in practically the same words by the Provincial Synod of Cashel held in the following month.<sup>3</sup> The principle obviously covers cases of suspension as well as dismissal.

So much for the strict justice of the case. But, side by side with this, another principle has been at work. The Church has at all times been anxious to preserve the dignity of the clerical state, and to prevent ecclesiastics from being reduced to beg for a living, or even being forced to depend for their maintenance on secular pursuits. Hence her insistence on proper provision being made for the future support of a cleric before he is admitted to Holy Orders. In this connexion the Council of Trent says 'it is unbecoming that those who are enrolled in the divine ministry should beg or exercise any sordid trade to the disgrace of their order';<sup>4</sup> and the Propaganda in its Instruction *De titulo Ordinationis* for the United States (1871) repeats the principle.

<sup>1</sup> 'Sacerdotes qui . . . a sacris arcentur functionibus non possint titulo justitiæ ab episcopo exigere ut eorum temporali necessitati provideat.'

<sup>2</sup> P. 31, n. 125. 'Sacerdotes qui ob propriam culpam exercitio sacri ministerii privantur nullum habent jus ad sustentationem ab episcopo, vel ex pecunia in usum sacerdotum infirmorum obtinendam.'

<sup>3</sup> C. viii. n. 3, p. 27.

<sup>4</sup> Sess. 21, c. 2, *de Ref.*



It was felt that the same principle should apply in its degree to dismissed or suspended ecclesiastics, for, whatever their faults, they had the sacramental *character* for ever, and, except when the punishment of 'degradation' was inflicted, were treated by Canon Law as sharers in the privileges of the clerical state. The first clear instance we find of its application in the general law of the Church is furnished by a decision of Pope Urban III., incorporated in the fifth book of the Decretals of Gregory IX. A deacon had gone through the ceremony of celebrating Mass, and the case was referred to the Pope. The decision was that 'the deacon was to remain suspended for two or three years,' but that 'as regarded the benefice, he was to be treated mercifully, lest, being deprived of support, he should have recourse to secular pursuits.'<sup>1</sup> The words of the decree make it clear that provision was made for his maintenance, not as a matter of justice, nor out of consideration for his individual interests, but solely through regard for the ecclesiastical dignity in which he shared: in other words, the principle followed was one of mercy, not of strict justice. The decision has since served as a model for other enactments and as a basis for the speculations of canonical writers. In connexion, for instance, with a decree of Innocent III. regarding certain ecclesiastics who had elected a candidate disqualified by the sacred canons, we find the commentator stating in the gloss that 'though they [the delinquent ecclesiastics] have been suspended from their benefices . . . nevertheless they should have a moderate support lest they be entirely destitute.'<sup>2</sup> The principle again is one of mercy or charity, not of justice: as is indeed indicated by the statement in the same gloss, from a later hand, that 'if such suspended ecclesiastics had a patrimony or other means of support, they ought to have nothing from their benefices.'<sup>3</sup>

<sup>1</sup> C. *Ex litt. de cler. non ord.* (v. 28): 'De beneficio autem misericorditer agatur cum eo, ne sustentatione privatus ad saeculi negotia revertatur.'

<sup>2</sup> C. 25, *de elect.* (i. 6): 'Tamen modicam sustentationem debent tunc habere, ne ex toto egeant.'

<sup>3</sup> *Ibid.*: 'Sed si tales suspensi a beneficio haberent patrimonium, vel aliud unde vivere possent, tunc ex beneficio nihil habere deberent.'

On the strength of these statements we find subsequent writers insisting more or less on the obligation superiors are under of providing for delinquent ecclesiastics who have no other means of support, especially when, as in the cases mentioned, their punishment has taken the form of a penal suspension. Their statements vary very much. Some seem to go so far as to assert that the obligation is one of justice. Stremler, for instance, says that

dismissal from a benefice always leaves the cleric the right to support. The ecclesiastical judge is bound in conscience to provide for the maintenance of the person condemned, and, if he refuses to comply with this duty of justice, he can be compelled to do it by his superior. He should assign the cleric who has been dispossessed of his benefice and who has no other means of livelihood an alimentary pension, or keep him in a monastery, according to the gravity of his fault, and not let him wander about, deprived of all means of subsistence; because, as the sacred canons state, '*paupertas cogit ad turpia.*'<sup>1</sup>

The general teaching is correct enough, but in so far as the author insists, or seems to insist, that the obligation is one of strict justice, his view should, we think, be modified, in harmony with the opinions and regulations already quoted. Other writers confine themselves to saying that there is an obligation of some kind in the case of all suspended, as distinct from dismissed, ecclesiastics. We have seen the views of Ferraris in regard to the latter: of the former, however, he says that 'a cleric suspended from his benefice should be supported from its revenues if he has no other means of livelihood.'<sup>2</sup> Others, and their opinion is the most probable, assert that while there is no obligation of any kind in the case of medicinal suspension—the priest having it in his power to regain his former position whenever he pleases—there is an obligation of some kind in the case of privation or penal suspension, when the cleric would

<sup>1</sup> *Traité des Peines Ecc.* pp. 33, 34. 'La privation laisse . . . le droit aux aliments. . . Si (le juge ecclésiastique) refuse à ce devoir de justice,' etc.

<sup>2</sup> *Biblioth. verb.* 'Alimenta,' n. 94 'Clericus a beneficio suspensus, si aliunde non habeat, debet ex fructibus illius alimenta percipere.'

otherwise be reduced to a condition of complete destitution. That is the view of Suarez :—

The doctors [he says] establish this difference between a cleric deposed absolutely or suspended for a crime already committed and one bound by a censure, namely, that the former, if they are in want, are to be supported from the income of the benefice (c. *Studeat*, dist. 50) lest they be driven to beggary, inasmuch as it is not within their own power and wish to hold the benefice or have a right to ecclesiastical revenues. But as for a person who is so punished for actual contumacy [medicinal suspension], the Church is not bound to support him from her own resources, even though he be in want and be compelled to beg, for he deserves all this in punishment for his evil course, and whatever disgrace results from it will fall on the individual and not on the order : and all that is allowable for the greater good of the Church, the prevention, namely, of contempt for her punishments.<sup>1</sup>

It is the opinion of Schmalzgrüber also :—

Is a priest [he asks] suspended by sentence to be deprived of the revenues necessary for the support of him and his own? We must reply with a distinction. He will be deprived of such revenues if the suspension has been inflicted for contumacy, and if he may, therefore, secure release from the censure merely by repenting of his crime. He will not be deprived, however, if the suspension has been inflicted not for contumacy but in punishment for a crime already committed [i.e., entirely past] and if, in consequence, he cannot free himself from it when he likes. For in this latter case the Church, out of consideration for the honour and decency of the clerical state, shows her kindness towards the suspended person by leaving it to the judge's discretion to assign such portion of the revenue as is necessary for his maintenance.<sup>2</sup>

And among others who restrict the principle in the same way and express themselves in practically the same

<sup>1</sup> *De Cens.* d. 13, s. 2, n. 14 : ' Illi (clericus absolute depositus vel suspensus ob culpam commissam) ex fructibus beneficii alendi sunt, si indigeant . . . eum vero qui ob actualem contumaciam sic punitur non tenetur ecclesia ex bonis suis alere.'

<sup>2</sup> L. 5, t. 39, n. 305.



words we may cite D'Hannibale,<sup>1</sup> Lega,<sup>2</sup> Avila,<sup>3</sup> Layman,<sup>4</sup> Smith,<sup>5</sup> etc.

Even of such limited claims as these authorities allow him the cleric may be deprived if he shows persistent contempt for ecclesiastical punishment. The result was secured in olden times by the infliction of formal 'degradation' which deprived him of all ecclesiastical privileges, those of the forum and the canon included, and made him a layman again, as far as that was possible. In the Decretals we find it laid down that,

Si (clericus depositus) incorrigibilis fuerit, excommunicari debere, deinde contumacia crescente anathematis mucrone feriri, postmodum vero, si in profundum malorum veniens contempserit, cum Ecclesia non habeat ultra quid faciat, nec possit esse ultra perditio plurimorum, per saccularem esse comprimendum potestatem;<sup>6</sup>

which in a recent Roman decision is paraphrased as meaning 'si depositio nihil juverit, ad degradationem realem procedi posse per quam, inter alios effectus, clericus privilegio fori et canonis exuitur, e statu clericali ejicitur, omnique privatur ecclesiastica provisione.'<sup>7</sup> The ceremony of 'real degradation' has practically fallen into disuse, but the Bishop or other religious superior is certainly empowered, as far as provision for maintenance is concerned, to effect the same result by a special sentence on the delinquent.<sup>8</sup> The old canonical rules, 'Cui licet id quod est plus, licet ei utique id quod est minus,' and 'in toto partem non est dubium contineri,' apply to the case. If the Bishop may, in extreme cases, deprive a criminal of all his privileges, why not of some? And there will be an obligation on him to adopt

<sup>1</sup> I. n. 377.

<sup>2</sup> *De delict. et poenis*, n. 195, p. 266. 'Relinqui ordinarii prudentiae et moderationi consulere ne clericus ad mendicandum coactus, etc. . . . Ratio habenda est discriminis quod intercedit inter *poenas* et *censuras*.'

<sup>3</sup> P. 4, dub. i. c. 3.

<sup>4</sup> *Comment.* i. t. 5, p. III, c. 5.

<sup>5</sup> *Elements*, iii. pp. 95-104.

<sup>6</sup> C. 10, *De Judiciis*.

<sup>7</sup> *Acta A. Sedis*, ii. pp. 479 sqq.

<sup>8</sup> This is expressly stated in the Roman decision referred to: 'Nullo jure vetatur quominus episcopus possit clericum per novam sententiam . . . omni ecclesiastico subsidio privare.'

such a course when the criminal's resistance to ecclesiastical pressure is persistent and notorious, and when his continued support from ecclesiastical sources would be a cause of grave scandal to the faithful generally.<sup>1</sup>

To sum up our conclusions :—

1°. There is no obligation in strict justice to provide for dismissed or suspended ecclesiastics.

2°. There is no obligation of any kind when the cleric has sufficient means of support from other sources.

3°. Neither is there any obligation when the suspension is a strict censure: the punishment is medicinal, and the cleric has only himself to blame, since he has it in his power at any moment to secure his release.

4°. There is no obligation either when the cleric has been formally 'degraded' or deprived by special sentence of his claim to maintenance. In fact, when scandal would arise, there is an obligation not to support him.

5°. Out of respect for the ecclesiastical dignity the spirit of the law is that, outside these cases, ecclesiastics, no matter how low they have fallen, should never be reduced to absolute beggary. In cases, therefore, of dismissal or penal suspension, where none of the conditions mentioned are verified, it is left to the discretion of the superior to make provision against complete destitution, and he is bound—in law, mercy, and charity, but not in justice—to use the powers entrusted to him.

It will be found, we think, that these statements fairly represent the principles by which ecclesiastical superiors are guided in our own country and in others similarly circumstanced. The American Bishops, for instance, inquired of the Propaganda 'whether and how it should be stated that priests, ordained on the title of the mission, who have rendered themselves unworthy of exercising the sacred ministry, are deprived of this title, and that the

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<sup>1</sup> Cf. Bargilliat, *Jus, Can.* ii. n. 1712. A pension, he says, ought generally be given, but 'Exciplunt auctores casum contumaciae ex parte cleric. quando tenendum est ne foveantur scandala si, non obstante hac contumacia, ipsius necessitatibus provideatur.'

Ordinary is not bound to support them?' The Propaganda replied on February 4, 1873, that 'in the case stated, if a previous declaration to this effect has been made by the Bishop to the priest, and if the said priest persevere in his evil course of life, showing no signs of sincere repentance, the Bishop is not bound to give him the means of support.'<sup>1</sup> adding, however, that, apart from this general answer to the question proposed,

the Ordinary is to be notified by letter that he is not to have recourse to the declaration in question unless he has, by repeated paternal admonitions, appealed in vain to the priest to repent, and has, moreover, secured, at least extra-judicially, indisputable proofs of his crime and public loss of reputation.<sup>2</sup>

The 'declaration' in the case is practically the same as the 'special sentence' of which we have spoken already; and it is clear that, according to the mind of the Propaganda, outside the case of persistent disobedience to episcopal admonition followed by the declaration mentioned, the Bishop *was* bound to see that even priests deprived of their ordination title should not be left entirely destitute. The effect of this answer is seen in the legislation of the Third Plenary Council of Baltimore held in 1884. After stating, as already quoted, that priests debarred from sacred functions had no claim in justice, the Council continues:—

At the same time, in order to recall more efficaciously wanderers to the narrow path, we earnestly recommend, according to the advice of the Propaganda, that institutions be set up, under the care of Religious, where fallen priests who give well-grounded hope of a change for the better may live for such time as the Bishop determines. And wherever, through unfavourable circumstances, that cannot be done, we impose a duty on the Bishops to see that, as far as possible, such priests be admitted into monasteries or religious houses. And as to the method by which the money required for the priests' support in the one case or the other should be collected, we think all

<sup>1</sup> *Conc. Plen. Balt.* iii. *Acta et Decr.* p. 210: 'In casu, prout exponitur, praevia declaratione ejusmodi sacerdoti ab episcopo facienda, et quamdiu praedictus sacerdos in sua prava vivendi consuetudine perseverat. . . . Episcopum non teneri ad sustentationem illi praebeendam.'

<sup>2</sup> *Ibid.*



that should be left to the judgment of the Bishops assembled in provincial or diocesan synods.<sup>1</sup>

The decrees of the Synods of Tuam and Cashel, already referred to, are expressed in more cautious terms, but are evidently dictated by the same spirit. After enunciating the principle already quoted, they add, both practically in the same terms: 'We wish, at the same time, that if they [viz., priests deprived of the exercise of sacred functions] be unable to support themselves, help should be given them in some way, as far as possible, in a religious house or otherwise, provided they are prepared to amend.'<sup>2</sup> These regulations hold *a fortiori* of invalid priests disqualified for missionary work through no fault of their own, often indeed as a result of their zealous discharge of their duties in the past. The Baltimore Council decreed that all the Bishops were to take measures to provide sufficient means for their support.<sup>3</sup> The Maynooth Synod of 1900 decreed that for this purpose 'all the priests of the diocese are bound to pay an annual tax to be settled in the next diocesan synod held after the promulgation of the [Maynooth] decrees'<sup>4</sup>—a regulation which the Provincial Synod of Armagh has repeated by deciding that a 'collection is to be made each year in all the dioceses of the province,'<sup>5</sup> leaving it, however, to the diocesan authorities in each case to decide the amount of the priests' contributions and arrange the other details of the scheme by which the purpose of the Synod may be effectively secured.

As regards cases in which priests are deprived of their office, it may be well to recall the fact that whatever differences of opinion exist regarding the consequences of the ordinary judicial process, removals under the recent *Maxima Cura* decree are governed by special regulations. There can be no doubt regarding the right of a priest so removed to a pension in case he is not appointed to another parish:

<sup>1</sup> N. 72. 'Episcopis onus imponimus pro viribus satagere,' etc.

<sup>2</sup> N. 125. 'Attamen si seipsos sustentare nequeant, volumus ut quantum fieri possit, aliquo modo sive in domo religiosa sive aliter, eis subveniatur, dummodo parati sint se emendare.' (Tuam.)

<sup>3</sup> Nn. 70, 71.

<sup>4</sup> P. 89, n. 210.

<sup>5</sup> P. 22, n. 26.

'Sacerdoti ex facta sibi invitatione renuncianti, aut administrativo modo a paroecia remoto, Ordinarius pro viribus consulat, aut per translationem ad aliam paroeciam, aut per assignationem alicujus ecclesiastici officii, aut per pensionem aliquam, prout casus ferat et adjuncta permittant.' This is only what might be expected from the principle underlying the decree. The aim is not so much to ensure the punishment of delinquent ecclesiastics as to promote the spiritual welfare of the faithful entrusted to their charge. The ordinary rules of criminal procedure do not apply, and a strict insistence on the usual consequences of canonical privation would, therefore, be out of harmony with the special circumstances of the case.

M. J. O'DONNELL.

## LITURGY

**COLOUR OF THE STOLE WHEN BENEDICTION IS GIVEN IMMEDIATELY AFTER MASS AND WHEN COMMUNION IS DISTRIBUTED 'EXTRA MISSAM.' MAY COMMUNION BE GIVEN IMMEDIATELY AFTER THE LAST GOSPEL?**

REV. DEAR SIR,—You will do me a great favour by answering the following questions in the next issue of the I. E. RECORD:—

1. May a priest who gives Benediction immediately after Mass use the stole of the vestments for the day?
2. If a priest has to give Communion immediately before or after Mass may he use the stole of the vestments for the day?
3. If the most convenient time for all concerned to give Holy Communion to a sick nun is immediately after the Last Gospel of the Mass, may the priest do so without violating the rubrics?—Yours faithfully,

VICARIUS.

1. The general rule regarding the use of white vestments and ornaments for Expositions and Benediction of the Blessed Sacrament admits of two exceptions. Provided, of course, that there is not question of black, the priest must use the colour corresponding to the Office of the day when Benediction is to be given *immediately* after Mass or Vespers.

This is clear from an answer of the Congregation of Rites given in the year 1868. In a certain diocese during a novena Mass was said daily in violet vestments *pro quacumque tribulatione* and was followed immediately by the Litanies and Benediction. The master of ceremonies objected to the use of violet for the Exposition and Benediction, and so the matter was afterwards submitted to the Congregation. The reply<sup>1</sup> was: 'Si canitur Missa pro quacumque tribulatione et statim sequuntur Litaniae Benedictio et Repositio SS<sup>m</sup>i Sacramenti, omnia in paramentis violaceis sunt peragenda.' A similar answer<sup>2</sup> in more general terms was issued in the year 1882. If, therefore, immediately after Mass the priest merely goes to the bench to prepare for Benediction he lays aside the chasuble and maniple, retains the stole and puts on a cope of the same colour. But if there is an interruption and the priest has retired from the altar so that the Benediction has not an immediate connexion with the Mass, then a white stole, etc., must be used.<sup>3</sup>

2. If the celebrant distributes Communion at the altar rails immediately before or after his Mass, he is fully vested as for Mass, and there can be no doubt, therefore, about the colour of the stole. But if a priest other than the celebrant distributes Communion in the church at one or other of the times mentioned, or indeed at any other time, the Roman Ritual lays down that the stole should correspond in colour to that of the Office for the day—'coloris Officio illius diei convenientis.' Notwithstanding this rubric many writers were inclined to hold that the colour should be white as more suitable for the Blessed Sacrament. In the year 1836 the following question was asked: 'An stola pro ministranda Sanctissima Eucharistia extra Missam esse debeat coloris Officio illius diei convenientis, ut praescribit Rituale Romanum; vel etiam esse possit alba, prout valde conveniens Sacramento Eucharistiae, ceu multi censent Doctores?' The answer then given was: 'Juxta Ritualis Romani Rubricam debet esse coloris Officio illius diei convenientis.'

<sup>1</sup> *Decreta Authentica*, 3175.

<sup>2</sup> *Ibid.*, 3559.

<sup>3</sup> *Ibid.*, 2562.



Later on, however,<sup>1</sup> the Congregation tolerated the custom existing in some places of using a white stole when giving Communion *extra Missam* to those who were fulfilling the Paschal precept. At the present time the practice of giving Communion *extra Missam* has become very common, and is considered as a function altogether independent of the celebration of Mass. Consequently, in the latest edition of the *Authentic Decrees* the answer to the question proposed in 1836 has been changed, and now we read: 'Affirmative ad utrumque.' According to the present legislation, therefore, a priest when giving Communion *extra Missam* in the church is at liberty to use either a white stole or, if the colour for the day is different, one of such a colour. It may be, however, that our correspondent, though his question is framed in general terms, had before his mind the circumstances mentioned in the next query. Chaplains are not unfrequently requested to give Communion in her cell to a sick nun immediately before or after Mass. The usual practice is that the priest does so vested in amice, alb, and stole. May he wear the stole of the vestments for the day, or should it in all cases be a white one? In the case just discussed the liturgical idea in retaining the stole corresponding to the vestments was to connect the distribution of Communion with the celebration of Mass, as was the early custom of the Church. But here we have a function which cannot be so regarded, but which should be considered as altogether distinct. Hence, for this reason alone, we are inclined to hold that the white stole should be used.

Moreover, the Ritual distinctly states that for the Communion of the *sick* the stole should be white. No doubt the rubric and commentators on it contemplate the case in which the Blessed Sacrament is carried away from the church to the house of the sick person; still, even in the case under consideration the rubric referred to seems to demand the use of a white stole exclusively, especially as the change, when necessary, involves no great inconvenience.

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<sup>1</sup> Aug., 1877.

3. 'Vicarius,' in a covering letter mentions several reasons which urge him to give Communion to the sick nun immediately after the Last Gospel, and before the Papal prayers. Whatever may be said of the force of these reasons, the Papal prayers must, in all cases, be said immediately after the Last Gospel, as is clear from the following<sup>1</sup>:—

Utrum preces praescriptas (3 Ave, Salve Regina, etc.) in quibusdam casibus, nempe vel alicujus parvae functionis vel Communionis distribuendae, peracta demum ista adnexa Missae caeremonia, recitare liceat; an subsequi Missam ipsae semper immediate debeant?

*Resp.* Preces a SS<sup>mo</sup> Domino nostro Leone Papa XIII. praescriptae, recitandae sunt immediate expleto ultimo Evangelio.

This answer applies with all the greater force to the case mentioned by our correspondent, as the interruption would be very considerable. The convenience of those concerned must yield to this very definite decision.

#### INTONATION OF THE 'GLORIA' AND 'CREDO' IN A SOLEMN MASS

REV. DEAR SIR,—The following decision of the Congregation of Rites, if I understand it properly, seems to make it of obligation for the celebrant at High Mass to sing the parts of the Mass he has to sing *as they are given in the Missal*, and not to sing them on different notation such as the tones for the *Gloria* and *Credo* to be found in the *Liber Usualis*, and other approved books of chant such as the *Gradualis* used by certain religious Orders:—

'A Sacra Rituum Congregatione postulaverunt plurimi: Utrum intonationes *Hymni Angelici* ac *Symbolis*, necnon singulae modulationes a Celebrante in Missa exequendae, videlicet Orationum, Praefationis, Orationis Dominicae, etc. Cum relativis responsionibus ad Chorum pertinentibus, *ex praecepto servari debeant prout jacent in Missali*; an mutari potius valeant juxta consuetudinem quarundam ecclesiarum?

'Affirmative ad primam partem; Negative ad secundam; et quamcumque contrariam consuetudinem esse eliminandam, etc.' (*Coll. Auth. Decr.*, 3891.)

<sup>1</sup> Decr., 23 Nov., 1887.

Gasparri (*Tract. Can. de Eucharistia*, vol. ii. 858), Schober (*Caerem. Miss. Sol.*, 2nd edit., p. 11), and Van der Stappen (vol. v. p. 403) quote the above decision as their authority for teaching that the Celebrant is to sing the part of the Mass above mentioned as given in the Missal, and not as they are to be found in Graduals or other liturgical books that differ from the Missal. Van der Stappen, not content with laying down this general rule, speaks again of the *Gloria in excelsis* at page 407 (nota), and says—after giving the different tones for the *Gloria* laid down in the Missal: ‘merito concluditur alios (tonos) non posse a Celebrante cantari.’ Then again, on page 417, he gives from the Missal the notes for the intonation of the *Credo*, and goes on to say: ‘Semper et ubique praescriptus tonus servandus est, nec unquam alia intonatio admittitur.’

Now in some places there is not uniformity among celebrants at High Mass in intoning the *Gloria* and *Credo*. Some sing only what is in the Missal; others sing what is not in the Missal at all.

Might I ask, is there any recent legislation on this point? Is the celebrant at High Mass bound to intone the *Gloria* and *Credo* precisely as noted in the Missal; or is he free to select any tone he wishes provided he take it from some duly approved collection? What is the practise in this matter in Rome or other places where such things are done in the right way?

Lastly, what is to be thought of the practice suggested by Van der Stappen (vol. v. p. 407) viz., that the celebrant can intone the *Gloria*, e.g., as noted in the Missal, and then the choir can take up and continue some other tone altogether different?

READER.

Strangely enough, ‘Reader’ omits from the answer of the Congregation some very important words. After ‘eliminanda’ the reply proceeds: ‘juxta Decretum in una de Guadalaxara diei 21 Aprilis 1873.’ The decree quoted, then, must be interpreted in the light of the answer given in 1873. The Archbishop of the place mentioned brought under the notice of the Congregation certain irregularities prevalent throughout Mexico in reference to the liturgical chants. Spanish Missals had been formerly in general use in the different dioceses of the republic. The chants they contained were not Gregorian nor was there uniformity in the various editions of these Missals. Now, however, the



Roman Missal, as printed in Mechlin, had been adopted generally, but the result, as far as music was concerned, were not at all satisfactory. A kind of 'traditional' chant was being developed, which naturally varied with the musical taste of the celebrant, which was neither Gregorian nor Spanish, but still retained a kind of remote similarity to both. An attempt which was made to introduce regularity and uniformity met with considerable opposition. 'Hinc obortae sunt aliquorum murmurationes et dubia consuetudinem allegantium!' In order to decide the matter definitely, the following question was proposed: 'Non attendere in Missae celebratione ad cantum in Missali impressum, sed quamdam cantilenam traditionalem cantare nullibi adnotatam, ideoque ad arbitrium variabilem, estne uti usus legitimus retinendus; vel uti corruptela extirpanda?' The Congregation replied: 'Negative, ad primam partem; Affirmative ad secundam.'<sup>1</sup> This is the reply which governs the subsequent decree quoted by our correspondent. It is this 'traditional' rendering of the various parts of the Mass—in reality a corruption and confusion of two styles—which is chiefly condemned; and in this sense the subsequent decree is referred to by Van der Stappen on page 403. His words are: 'Haec omnia [sc. *Gloria*, *Credo*, Prayers, Preface, and *Pater Noster*] debent ex praecepta cantari prout jacent in Missali, et non possunt mutari secundum quasdam cantilenas traditionales, aut juxta consuetudines quarumdam ecclesiarum; et quaecumque consuetudo contraria est eliminanda et tamquam corruptela est extirpanda.' With regard to the statement of this author on page 417, namely, that only one intonation of the *Credo* is admissible, it was perfectly correct at the time he wrote but, as we shall see, is no longer so; for, as may be seen from the Ratisbon *Gradual*, only one method was then approved. Only four intonations are given for the *Gloria* in the *Gradual* and in ordinary Missals, and one of these should have been used in the past. Any others belonged to the 'consuetudo quarumdam ecclesiarum,' or were merely traditional and therefore condemned.

<sup>1</sup> *Decr. Auth.*, 3292

We have not thought it necessary to follow our correspondent's references to Gasparri and Schober, especially in view of the fact that all these discussions are now only of historical interest. The Vatican edition of the liturgical books is now obligatory. It was published as long ago as 1907, and its chants are adopted in the new Missals. On reference to one of these Missals it will be seen that there are fifteen different ways of intoning the *Gloria*, and two for the *Credo*. It may not be out of place to point out that, with the exception of the ferial chants, any one of these may be substituted for another. A 'monitum' in the *Kyriale*, from which these intonations are taken, states: 'Quislibet cantus hujus Ordinarii superius in una Missa positus adhiberi potest etiam in alia, Feriis tamen exceptis.' But no other method of intonation is allowable, as these are the only ones approved. They are practically identical with those found in the *Liber Usualis*. For the *Credo* the first and third intonations of the *Liber* are those approved in the Vatican edition of the *Kyriale* and incorporated in the new Missals. One or other of these intonations is now of obligation everywhere as well as in Rome, and every church in which High Mass is sung should possess a copy of the recent edition of the Missal.

With regard to the final question, the priest should intone the *Gloria* according to the chant which the choir is to sing. Van der Stappen<sup>1</sup> says: 'Sed cum istae intonationes sint initium relativorum cantuum *Gloria*, *Credo*, *Ite missa est*, ideo curet ut hanc intonationem eligat celebrans, quae aptetur cantui qualiter a choro perficitur.' However, if the celebrant in any instance is not sufficiently familiar with a particular form there is no great deordination in his selecting one which may be easier, and it would be more advisable to do so rather than give a ridiculous rendering of an intonation with which he is not well acquainted.

THOMAS O'DOHERTY.

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<sup>1</sup> Vol. ii. 3rd edit., pp. 43-4.

## CORRESPONDENCE

## CONDITIONAL EXTREME UNCTION

REV. DEAR SIR,—In pointing out that ‘*si tu es capax*’ should be the form of the condition, if inserted, Dr. Harty and Father Dunne show how the danger of nullity is to be avoided. But the insertion of a condition when the doubt is ‘*an periculosa sit infirmitas*’ is not plainly taught in our ordinary handbooks. The Ballerini-Palmieri Treatise, which deals rather fully with the various questions that arise in Moral Theology, says (*Tract. de Ex. Unct.*, n. 25) that if there is a negative doubt (‘*si infirmitas sit periculosa*’) Extreme Unction is not to be administered, but it is to be administered if the doubt is positive—there is no suggestion of a condition. Neither does it appear to be the practice of the clergy to insert a condition under the circumstances. Any that I have asked about it say they never do so, and I have already quoted other experience. Is this practice wrong? I look for guidance, and I am grateful to Father Dunne and Dr. Harty for the measure of it they have so far given.—I am, yours truly,

S. L.



## DOCUMENTS

LETTER OF HIS HOLINESS POPE PIUS X. TO FATHER FIAT,  
GENERAL OF THE VINCENTIANS

AD R. D. ANTONIUM FIAT, ANTISTITEM GENERALEM CONGREGATIONIS  
VINCENTIANAE, MODERATOREM ARCHISODALITATIS AB AGONIA  
D. N. I. C. NUNCUPATAE, GRATULANDO RESCRIBIT

Dilecte Fili, salutem et apostolicam benedictionem.—Praeclarum sane munus cum pietatis tum etiam caritatis ista tuetur Archisodalitas cui tu praesides : quae quidem ex assidua meditatione moeroris et tristitiae qua Dominus Iesus ad Gethsemani est paene confectus, eum vult fructum in commune a sodalibus afferri, ut et Ecclesiae sanctae tranquillitatem et morientibus fratribus salutem sempiternam a Deo implorent. Etenim cum agonia Christi magnam habet similitudinem perpetua illa coluctatio quam patitur corpus eius mysticum, quod est Ecclesia. Quique miseratione teneatur amantissimi Redemptoris, quod aliena tantopere peccata horresceret quae in se Ipse transtulisset, is facile miserebitur fratrum quos, agentes animam, suarum culparum terror sollicitat. Itaque consociationem huiusmodi tam opportunam et frugiferam iure decessores Nostri fel. rec. Pius IX. et Leo XIII. privilegiis auxerunt magnisque laudibus honestarunt. Nos autem longe lateque iam propagatam, ut nuntiasti, consociatorum numero et alacritate florere valde gaudemus : tibi quoque et universis sodalibus, exeunte mox post ipsam institutam L anno, vehementer gratulamur. Vos vero pergitis vel studiosiores a Deo communibus obsecrationibus petere, ut Ecclesia, si a dimicando cessare non queat, certe ex agone evadat quotidie validior, deviosque filios bona mater, saltem in excessu vitae, sibi reconciliatos complecti possit. Divinorum interea munerum auspicem vobis omnibus, primumque tibi, dilecte Fili, apostolicam benedictionem amantissimi impertimus.

Datum Romae apud S. Petrum, die xx Decembris MCMXI,  
Pontificatus Nostri anno nono.

PIUS PP. X.

## CERTAIN FEASTS HITHERTO AFFIXED TO SUNDAYS

## DECRETUM

DE QUIBUSDAM FESTIS DIEBUS DOMINICIS HUCUSQUE AFFIXIS

Quum ex novis Rubricis Festa diebus Dominicis affixa, nisi sint Festa Domini aut Duplicia primae vel secundae classis,

amplius in ipsis celebrari nequeant ; Sacra Rituum Congregatio attentis etiam Praescriptionibus Temporariis memoratis Rubricis adiectis, insequentes declarationes evulgare censuit :

1. Festum Commemorationis Omnium Ss. S. R. E. Summorum Pontificum in locis, quibus idem Festum, sub ritu duplici minori vel maiori, pro Dominica prima libera post Octavam Ss. Apostolorum Petri et Pauli iam concessam est, adhuc celebrari licet, die prima mensis Iulii fixe adsignata.

2. Item Festum Commemorationis Ss. Reliquiarum in locis quibus idem Festum pro aliqua Dominica, sub ritu duplici minori vel maiori, iam indultum est, in posterum celebrari adhuc potest, die quinta mensis Novembris fixe adsignata.

3. Si aliquod Festum Ecclesiae Universalis sive Beatae Mariae Virginis, sive Sanctorum, sub ritu duplici minori vel maiori, alicubi die Dominica concessum fuerit celebrari, amodo in die sua omnino reponendum est.

Atque ita rescripsit die 9 Februarii 1912.

FR. S. CARD. MARTINELLI, *Praefectus*.

L. ✠ S. ✠ PETRUS LA FONTAINE, *Episc. Charystien., Secretarius*.

#### DECREE OF SACRED CONGREGATION OF PROPAGANDA

##### S. CONGREGATIO DE PROPAGANDA FIDE

##### DECRETUM

##### IMMUTATIONIS LIMITUM

Ad evangelicae veritatis lumen facilius inferendum in vastissimas et adhuc Fidei impervias Thibeti regiones, nuper, accedente consensu Archiepiscopi Calcuttensis, ab hac S. Congregatione Christiano Nomini dilatando praeposita, petiit R. P. D. Petrus Giraudeau, Episc. tit. Tiniadensis et Vicarius Apostolicus Thibetanus, ut missioni suae parva quaedam adderetur regio intercedens inter fines regni Thibetani et territorium in Indiis orientalibus *British Boutan* appellatum, quod Decreto diei 3 Iulii anni 1883 eidem Missioni adiunctum fuit. Re porro proposita in generali conventu habito die 26 Februarii u. p., Emi Patres, mature omnibus consideratis, vicariatui apostolico Thibetano adjudicandam esse censuerunt regionem ad hanc usque diem archidioecesi Calcuttensi pertinentem, quae, iuxta exhibitam geographicam chartam, continetur ad Septentrionem Thibeti finibus, ad Orientem regione Boutan, ad Meridiem territorio *British Boutan* nuncupato, ad Occidentem denique summitate

montium trans flumen Rongpo quorum primum culmen Occidentem versus Maphyla appellatur et extremum ad Septentrionem, Gainshari.

Hanc vero Eminentissimorum Patrum sententiam, SS<sup>m</sup>us Dñus N. Pius div. prov. PP. X. audita relatione Sibi facta a R. P. D. Sacrae huius Congregationis Secretario in Audientia eiusdem diei 26 Februarii, in omnibus ratam habuit et confirmavit atque praesens in re Decretum expediri iussit.

Datum Romae ex aedibus S. Congregationis de Propaganda Fide, die 20 Martii, anno 1912.

FR. H. M. CARD. GOTTI, *Praefectus*.

C. LAURENTI, *Secretarius*.

L. ✠ S.

### SOME DOUBTS RESOLVED

#### S. CONGREGATIO RITUUM

#### EGITANIEN.

#### DUBIA

Episcopus Egitaniensis Sacrae Rituum Congregationi pro opportuna solutione sequentia dubia subiecit; nimirum:

I. Utrum Decretum n. 3096—quo declaratur die vigesima quinta Aprilis occurrente in Dominica, in Ecclesiis ubi unicus est Sacerdos, Missam cum cantu Rogationum, quando fit Processio, valere etiam pro adimplendo onere Missae Parochialis—extendi possit ad Missam quae cani permittitur de Festo Commemorationis sollemnis SS<sup>m</sup>i Corporis Christi Dominica infra Octavam eiusdem, saltem ubi fit Processio?

II. An Decretum diei 11 Maii 1911 ad II—quo edicitur organum adhiberi posse, in casu necessitatis, solummodo ad associandum et sustinendum cantum, silente organo cum silet cantus in Officiis et Missis in quibus sonus organi prohibetur—semper valeat, sive adhibeatur cantus Gregorianus, sive polyphonicus?

Et Sacra Rituum Congregatio, ad relationem infrascripti Secretarii, audita sententia Commissionis Liturgicae, respondendum censuit:

Ad I. Negative, nisi obtineatur indultum.

Ad II. Affirmative.

Atque ita rescripsit, die 22 Martii 1912.

FR. S. CARD. MARTINELLI, S. R. C. *Praefectus*.

L. ✠ S. ✠ PETRUS LA FONTAINE, *Episc. Charystien., Secretarius*.



## NOTICES OF BOOKS

GADELICA. A Journal of Modern Irish Studies. Dublin :  
Hodges, Figgis & Co. 1912.

ALL who are interested in the progress of Irish scholarship will hail with satisfaction the appearance of the new quarterly review entitled *Gadelica*. Hitherto the efforts of scholars in the domain of Irish learning have been mainly directed to the elucidation of the older language and literature, and the wide field of modern Irish has scarcely been touched in a critical and scholarly way. It is a good thing after all, perhaps, that so much time and energy have been expended on the clearing up of difficulties in Old and Middle Irish. The accumulated results of the researches of scholars like Zeuss, Stokes, Strachan, Thurneysen, Bergin, Meyer, Marstrander, have enabled the critical student of modern Irish to approach his subject with the proper historical perspective. There will now be less danger of blind dogmatism in the solution of the problems which await the investigator of the language and literature of the last three centuries. The time is ripe for the production of such a review as *Gadelica* promises to be. There is an immense amount of material to be worked up, and there are many willing workers. Hitherto there has been no suitable medium for conducting the results of individual research along the proper channels to their proper destination. This want, we feel, will be fittingly supplied by *Gadelica*. The very existence of such a review ought to stimulate the efforts of those who are capable of doing original work, and the fruit of those efforts can henceforth be more easily preserved, and made accessible to many earnest students who at present are not in touch with the best modern Irish scholars. It must be remembered, however, that a publication of this kind appeals only to a comparatively limited circle of readers. We only hope that all who ought to take a practical interest in the matter will at once become subscribers, and so remove any anxiety which the promoters of *Gadelica* may be inclined to feel as to its financial success. We have carefully perused the first number, and we can assure our readers that it augurs well for the future of the journal. Dr. Bergin, Miss Knott,

Tórna, J. H. Lloyd, Father Dinneen, Séamus ua Casaide are the first contributors. The journal will be under the capable editorship of Thomas F. O'Rahilly. The price will be 2s. 6d. net per number, or an annual subscription of 6s. 6d. (four numbers). We heartily congratulate the Association of Modern-Irish Studies on the highly creditable manner in which they have produced their first number, and think we may assure them that they need have no misgiving as to the success of the venture. Interest in our national language is now sufficiently general and sufficiently intelligent to make that success a certainty.

Ἐσπερίο Ὁ Νουάλλáιν.

Ἱρπλεάβαρ Μυῖζε Νουάδαν. Δρ n-α चुपि अमच वो  
Chuaillacht Chuilm Cille. Dublin: M. H. Gill & Son,  
Ltd. 1912.

MAYNOOTH still holds its leading place in the cultivation of the Irish language, and the Book of the Columban League of this year is a good indicator of the progress made in recent times. It is only one, however, of the marks of the profound and fervid interest taken by the students in the revival of the Irish language. Perhaps a more signal mark of it is the ever spreading desire manifested by them to acquire a conversational knowledge of the language or to perfect the knowledge already acquired. All through the winter it was as common to hear Irish spoken by the groups of students at recreation as it was to hear English.

Even in the English essays, which are well written, and in some cases very elegantly illustrated, Irish subjects of the deepest interest are treated. We are glad to find sketches of Eugene O'Curry and John Colgan. We have a very interesting paper on 'Buying and Selling in Ireland,' and another on 'Irish Spelling Reformed,' whilst scenic beauties and sacred memories are happily blended in a paper on 'A Corner of South Donegal.'

Of the Irish papers the most elaborate and scholarly is signed 'A. O. C.' Father Paul Walsh's translations are very neatly turned; and a short paper on the *Móo Dóineac* is particularly useful. We must not go beyond our depth in venturing to criticize any of these Irish papers. It is enough to say that they are very numerous; that they seem to be much more scholarly on the whole than those of earlier numbers, and that the whole book is a wonderful index of the overflowing national and patriotic spirit of the young men of the Columban League.

Leabhar na Laoiteas. Dublin : M. H. Gill & Son, Ltd.  
1912.

Leabhar na Laoiteas, as the title-page indicates, is a collection of Ossianic poems, edited, with notes, introduction, and a full vocabulary for the use of Intermediate students, by J. J. O'Kelly. The book contains 104 pages of poetry written for the most part in the so-called Ossianic stanza, some of it good, much of it very commonplace, and not a little of it indistinguishable from the baldest prose. It is not by the literary merits of the contents, however, that we are to judge the usefulness of the book. Being intended for the use of Intermediate students—who, as a rule, know little of, and care less about, the literary merits or demerits of the books they 'study'—one does not look in it for literature of a high order. It is sure to interest for other reasons. From the linguistic, historical and topographical stand-points it contains a great deal of matter worth reading, and claiming the attention of more matured students of Irish than those to be found in Intermediate schools. We think, therefore, that Mr. O'Kelly has done signal service to the Irish-speaking public generally, by giving them Leabhar na Laoiteas. At the same time the book is made to meet the special requirements of those for whom it was mainly intended. It is supplied with a carefully compiled vocabulary, a list of personal and place names, an Introduction of 26 pages, and 30 pages of Notes—these last, however, being mainly paraphrases of the poems. In the Introduction the editor touches on the much-debated question of the historical significance of the Fiana, and in the course of his treatment of the subject, finds fault—not unreasonably, we think—with Dr. Kuno Meyer, for certain aspersions which the latter seems to cast (*Fianaigeacht*, ix.) on the position of the Fiana, and on the attitude of the Church towards them. Mr. O'Kelly also dissents from the theory expressed by Professor John MacNeill in his *Quanaighe Fhinn*, concerning the development of the Fionn Saga; and is particularly insistent on the insufficiency of the evidence to prove the existence of that 'literary primacy' which Professor MacNeill supposes the Ulidians to have secured for themselves during the period between their conversion to Christianity and the seventh century.

The book is exceedingly well printed—there are only half a dozen corrigenda.



LES DISCOURS DE JÉSUS SUR LA MONTAGNE. Par l'Abbé Stanislaus Gamber, Docteur. ès-lettres, chanoine titulaire de Marseille. Paris : Lethielleux. 1912.

THIS is an eloquent and graceful treatment of the entire Sermon on the Mount. It is very simple in conception. The author, in a delightfully written introduction, puts before us the friends of Christ gathered round Him on the Horns of Hattin to listen to the charter of their freedom—a charter not given from out Sinaitic fires and thunderings, but spoken gently amidst the peace and beauty of a Galilean springtime. M. Gamber then takes us, step by step, through each phase of the great discourse, bringing out, with the peculiar grace and clarity of French style, each aspect of Christ's teaching. At the close the author provides us with a careful translation of the great text itself.

For those who are accustomed to study dry scientific treatments of the Sermon, this little book with its wonderful freshness and ease will come as a relief. It runs so easily that one almost fails to see that its suggestions are often new. Preachers will find that M. Gamber has supplied them with many themes, and has hinted at ways in which those themes might be developed.

P. B.

DIE ALLEGORIE DES HOHEN LIEDES, Ausgelegt von P. Romuald Munz, O.S.B. Freiburg and London : Herder. 1912.

THE aim of this work is to show that the allegorical explanation of the *Canticle of Canticles* is the only one feasible or permissible. All attempts, the author maintains, to explain the book as a marriage-drama, or as a series of harvest songs, or satirical poems, have failed. We must, he thinks, study the book in the spirit of the early Church and find in it an allegorical statement of Christ's love for His Church, for His Mother, and for the individual soul of each Christian. The Bridegroom everywhere is Christ, but the Bride is not always the same. The marriage-bond as a symbol of God's union with men is familiar in the prophets of the Old Testament. It is used for the same kind of symbolism in the wedding-song in Psalm xliv. Thus an allegorical explanation of the *Canticle of Canticles* is suggested by the Old Testament itself. God's love for men and His union with them are most perfectly symbolized by the love and union of marriage considered as a union based on likeness

and sympathy of soul. The author finds many reasons to prove the suitableness of this symbolism.

(a) Supernatural love is symbolized best by the highest earthly love which is that of the wedded.

(b) The supernatural union of God and His Church, or of God with the soul, is free on both sides, like the marriage contract.

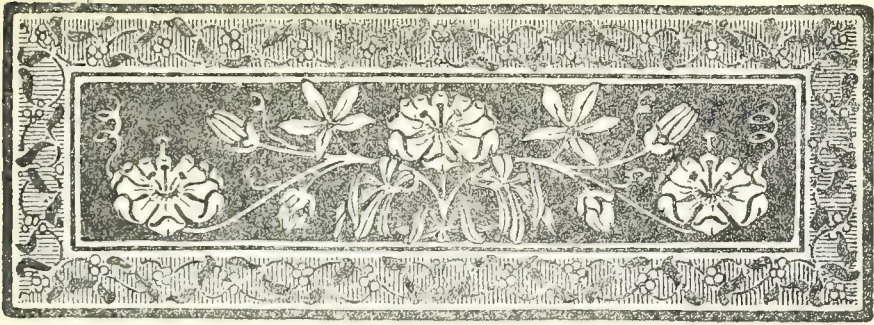
(c) As marriage-love should never cease, and as the marriage-bond may not be broken, so the bond of love between God and man should never be dissolved.

(d) Marriage is, of its nature, a fruitful union, and its perfection is measured by the abundance of its fruit. So, too, is the supernatural union of God with man a fruitful union, and its perfection is measured by the births of virtue which are its fruit.

In form the *Canticle of Canticles* is a quasi-dramatic poem : but in its contents it is lyrical. Those who have looked on it as a merely human marriage-drama, or as a set of ordinary love-songs, have taken the frame for the picture and the husk for the kernel. The Fathers called Canticles an epithalamium, and there is no doubt that in structure and in imagery it is a nuptial ode or set of nuptial odes, but the nuptials which it celebrates are those of Christ with His fair spouse, the Church, or with the soul of man. The Church of Israel is perhaps meant to be described along with the Church of Christ—since the latter may be said to include the former. Dr. Munz divides the whole book into two sections. The first section extends to ch. 5, and is an allegory of all that led up to the Incarnation ; the second section, which extends to the end, describes allegorically the history of the Church and its final victory.

Dr. Munz explains his exegetical theories in an eloquent introduction. He supports them by a close grammatical and critical study of the Hebrew text, which he sets off in every case by an allegorical explanation. The arrangement of the work is good, and students will find this new commentary very useful as a supplement to, and often as a criticism of, the work of Hontheim and Zapletal.

P. B.



## PRAGMATISM—I

**P**HILOSOPHICAL theories nowadays seldom succeed in disturbing the intellectual equanimity even of philosophers themselves. Our susceptibilities have become staled with the enormous variety of philosophical opinions, so that a novel system is apt to affect us much in the same fashion as a new drama or a new picture, interesting as an attempt at personal expression, as an individual reaction upon experience, rather than as urging any serious claim to be a final explanation of our complex universe. The theory of Pragmatism, however, of which the late Professor James may be regarded as the most logical and clear-sighted advocate, whilst it is just one of its most striking peculiarities that it scarcely claims to be a final solution of the most intricate problem of human knowledge, can certainly claim to have aroused more than common interest even outside purely philosophical circles. It has infused life and movement into philosophical debates, found devoted adherents and furious opponents, and altogether brought unrest into the placid fields of philosophy. So far its work has been destructive, 'a breaking of the old philosophic tables,' and its advocates seem to derive keen enjoyment from their demoralizing power. The ground must be cleared of the old intellectual prejudices—the formal logical traditions—before the new philosophy of human values can be constructed.

At first sight it may seem strange that Pragmatism



should have succeeded in arousing so much interest, because it is a theory most difficult to fix in its details, a system, in fact, whose precise meaning is peculiarly elusive. Theories that seem to violently shake off philosophical traditions have, however, a fascination for the human mind. And those who desire to possess a philosophy without the preliminary labours of philosophizing—the keen intellectual struggles of initiation—will always welcome theories that seem to dispense with all the formidable apparatus of logical machinery. To the perplexed student of philosophy Pragmatism seems at first sight to bring the glad tidings of emancipation from the rigid formulas of the schools, and the promise of a justification for more personal views concerning the universe. It seems to justify an appeal to temperament in arriving at our philosophical decisions, and thus to find a place for that factor in belief which we know to be so potent in other spheres. There is to the modern mind a genuine ring in the pragmatic appeal to personal idiosyncrasies; it suits our time and falls in with our predilections :—

Almost everyone has his own peculiar sense of a certain total character in the universe, and of the inadequacy fully to match it of the peculiar systems that he knows. They don't just cover his world. One will be too dapper, another too pedantic, a third too much of a job-lot of opinions, a fourth too morbid, and a fifth too artificial or what not.<sup>1</sup>

Pragmatism refuses to be ticketed with any of these epithets, being sufficiently mobile to accommodate itself to the infinite temperamental requirements with which men approach philosophic problems. Such is the winning suggestion, whatever modification it may need when we come to study details.

The difficulty of explaining what Pragmatism means is only too evident to anyone who makes the attempt. The theory comes to us for the most part in the very 'questionable shape' of polemical essays, from which we more easily

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<sup>1</sup> James, *Pragmatism*, p. 37.

gather what the theory is not than what it is, or of popular lectures, in which scientific detail would be out of place. The amazing mental alertness of its defenders and the facility with which they can demonstrate that one eminent critic after another has miserably misunderstood and misrepresented their views almost tend to convince one that the theory is really too subtle to be 'understood' of the ordinary mind. Pragmatism is sadly in need of a detailed and definite exposition, such as Stuart Mill gave of the philosophy of Hume. What we need is a logic of Pragmatism, or, if this seems contradictory, a pragmatic theory of values, a *Philosophie der Werte*.<sup>1</sup>

The name itself is not new in philosophy. The word *πρᾶγμα* was already used by Aristotle to express the real or what is given in experience as opposed to what is merely thought.<sup>2</sup> But the term as used in recent philosophy is not improbably borrowed from Kant, who uses it in a somewhat loose way, as is common with him in matters of terminology. He speaks, for example, of pragmatic anthropology as equivalent to practical ethics, and opposes the physiological knowledge of man which tells us what nature makes out of man, to the pragmatism which tells us what man as a free being makes out of himself. Generally, with Kant, all maxims of prudence (*Klugheitsregeln*) are called pragmatism, being mere judgments of utility as opposed to the universally valid categorical imperatives of duty. And in the *Kritik of Pure Reason* he speaks of a corresponding pragmatism, which is only an accidental belief, dealing with the value of certain means for certain ends, as opposed to the absolutely universal and necessary knowledge

<sup>1</sup> 'Mill was guilty of shortcomings and inconsistencies, like other philosophers, but the head and front of his offending was that, unlike many other philosophers, he wrote intelligibly enough to be found out.'—Hobhouse, *Theory of Knowledge*, p. ix.

<sup>2</sup> 'Bei Aristoteles findet sich der Ausdruck *πρᾶγμα* schon in der Bedeutung, die heute Peirce und James dem Worte beilegen. Aristoteles versteht zuweilen darunter das Wirkliche, erfahrungsgemäss Gegebene im Gegensatz zu dem bloss Gedachten oder dem reinen Gedankendingen (*entia rationis*). In den logischen Schriften und in der Metaphysik unterscheidet Aristoteles wiederholt zwischen dem Denken (*διανοία*) und dem Wirklichen (*πράγμασι*).—L. Stern, *Philosophische Strömungen der Gegenwart*, p. 39.

of moral laws. With Kant the term is used to express a rather low level of belief, our belief in the merely empirical laws of happiness and utility.<sup>1</sup>

The theory of Pragmatism as recently developed has two aspects : it is, in the first place, a *method* of dealing with conceptions, and in the second place it is a *genetic theory of truth*, upon which an entire theory of reality is constructed. In its former aspect the pragmatic method was originally suggested by C. S. Peirce so far back as the year 1878. He gives the following brief account of it in Baldwin's *Dictionary of Philosophy and Psychology*:—

The opinion that metaphysics is to be largely cleared up by the application of the following maxim for attaining clearness of apprehension : Consider what effects that might conceivably have practical bearings, we conceive the object of our conception to have. Then, our conception of these effects is the whole of our conception of the object.

Correctly applied this pragmatic method is not open to serious objection. The difficulty lies in its application in the concrete and in the interpretation that we are to put upon the words 'practical bearings.' What exactly is meant by 'practical bearings' requires itself to be 'largely cleared up.' Peirce apparently had no intention of dissolving the theoretical absolutely into the practical, or of denying all value to logical satisfaction as such. He insists, in a rather cumbersome phrase, that

the only ultimate good which the practical facts to which it [the pragmatic method] directs attention can subserve is to further the development of concrete reasonableness ; so that the meaning of the concept does not lie in any individual reactions at all, but in the manner in which those reactions contribute to that development.

This method of dealing with conceptions has, however, become, in the hands of James and his followers, a complete theory of truth and reality. What with Peirce was a maxim of methodology has become the basis for a

<sup>1</sup> See L. Stern, *op. cit.* pp. 43 et seq.



metaphysics of reality. Truth is now defined as consisting essentially in certain practical consequences ; truth is what ' works,' or what gives ' the maximal combination of satisfactions.' This is the theory which I now propose to consider in some detail. It cannot be briefly stated, because it includes, as I have said, an entire metaphysics, and rests upon a rather complicated combination of principles. And my purpose is not to deal with it in the way of direct exposition, but rather to trace some of the philosophical principles and tendencies out of which it has arisen.

#### THE PRAGMATIC SPIRIT.

The general temper of mind that expresses itself in the pragmatic theory of truth is a temper familiar to the student of the history of speculation. Often we find it, as in James, linked with a psychological bias in philosophizing ; often, again, it seems to spring from what is in reality a closely allied spirit—the observant scepticism of the man of the world, such as we find it (to take a definite example) in Montaigne. There is a passage in *Gaston de Latour* in which Pater catches very finely this sceptical outlook of the detached literary thinker :—

For opinion was the projection of individual will, of a native, original predilection. Opinions!—they are like the clothes we wear, which warm us, not with their heat but with ours. Track your way (as he had learned to do) to the remote origin of what looks like folly ; at home, on its native soil, it was found to be justifiable, as a proper growth of wisdom. In the vast conflict of taste, preference, conviction, there was no real inconsistency.<sup>1</sup>

This is a tolerance which springs from indifference to truth, from a well-bred scepticism too refined to mingle in the vulgar clash of opinions, professing to know too much about truth generally to be seriously concerned about any particular opinion. It may claim affinity, as I have said, with the psychological spirit, inasmuch as the psychologist for his part is interested not so much in thought as in ' the processes by which thought moves.'

<sup>1</sup> Pater, *Gaston de Latour*, p. 92.

‘The method by which the fool arrives at his folly is as dear to him as the ultimate wisdom of the wise.’

But this attitude of mind, although affording insight into the temper from which Pragmatism springs, must not for a moment be identified with this theory itself. The pragmatic temper is allied to the negative side of scepticism, but not to its indifference, its passivity, its ἐποχή. The most we can say is that minds like Montaigne’s were sensitive to some of those aspects of belief which the Pragmatists have developed into a complete philosophy of knowledge. The theory in its present concrete shape is something quite new. The principles, indeed, are often old and familiar, but their logical setting is novel and original. At the same time, it is useful to trace in the philosophical movements of the day the intellectual forces which have led up to the theory, to find the various lines of speculation converging into the focus of a single system. Such principles of Pragmatism I now propose to trace, and I shall deal with them under five heads. I propose to show how this theory is the outcome of reflection upon (1) the multiplication of scientific hypotheses ; (2) the failure of the representative theory of knowledge ; (3) the application of the concept of evolution to truth ; (4) the revolt against the absolutist theory of truth ; and (5) the psychological analysis of the purposive nature of belief.

#### THE MULTIPLICATION OF SCIENTIFIC HYPOTHESES.

The observation of the extraordinary variety of inconsistent beliefs held by thinkers in various branches of knowledge has always tended to react upon received notions as to the meaning of truth. It is natural, indeed, that a surplus issue of opinions should tend to lower the value of the currency of truth. Where there are so many types of claimant to the honoured name, it may well seem difficult to arrive at a decision as to what truth really is. Where beliefs conflict, the motives of credibility are apt at times to appear personal rather than objective or universally compellent. Why not, then, abandon all *a priori* definitions of truth, examine the facts inductively, ‘observe truth at its

work in particular cases,' and generalize. This is the scientific way to discover what truth really is, the method most in keeping with our modern positivistic temper.

As I understand the pragmatist way of seeing things [says the late Professor James] it owes its being to the breakdown which the last fifty years have brought about in the older notions of scientific truth. 'God geometrizes' it used to be said; and it was believed that Euclid's elements literally reproduced his geometrizing. There is an eternal and unchangeable 'reason'; and its voice was supposed to reverberate in *Barbara* and *Celarent*. So also of the 'laws of nature,' physical and chemical, so of natural history classifications—all were supposed to be exact and exclusive duplicates of pre-human archetypes buried in the structure of things, to which the spark of divinity hidden in our intellects enables us to penetrate. The anatomy of the world is logical, and its logic is that of a university professor, it was thought. Up to about 1850 almost everyone believed that science expressed truths that were exact copies of a definite code of non-human realities. But the enormously rapid multiplication of theories in these latter days has well nigh upset the notion of any one of them being a more literally objective kind of thing than another. There are so many geometries, so many logics, so many physical and chemical hypotheses, so many classifications each one of them good for so much and yet not good for everything, that the notion that even the truest formula may be a human device and not a literal transcript has dawned upon us. We hear scientific laws now treated as so much 'conceptual shorthand,' true so far as they are useful but no farther.<sup>1</sup>

This is in James's most delightful vein, full of a bold, ironical humour, displaying his power of gathering evidence from all sides, and combining it with masterly skill and precision. That the older view whose breakdown he is describing has perhaps never been held by any thinker of eminence is likely enough. But who can deny that it is a view even at the present time very much in the air, forming a kind of common background to our thinking, a tradition in the learned world, much as the theory of 'innate ideas' was a tradition in the days of Locke, although in

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<sup>1</sup> James, *The Meaning of Truth*, pp. 57, 58.



the perspective of history he seems to be merely attacking a theory of his own creation?<sup>1</sup>

And the conclusion to which James would lead us seems inevitable. We must not, however, mistake his aim. If theories and conceptions and beliefs are so varied and all held by some one or other with such 'genuine depth of conviction,' it may be urged that they are all on the same level of value or uselessness, and that the rejection of some in favour of others can at best be only an arbitrary process. This is the sceptical conclusion. The pragmatist rejects this conclusion just because, as we shall see later, his standpoint is not individual but racial or social. Moreover, his purpose is not to deny truth, but to define it. What he desires to lead us to is the important result that we must reconstruct our definition of truth in the light of facts. We must examine the character of beliefs in the concrete, and discover, if possible, their common measure. The result is a revolution in logical method; as the zoologist or the botanist examines his specimens so should the *Erkenntnis-theoretiker*. And this means the abolition of all *a priori* definitions, even in the logical sphere.

It is interesting to examine the basis of this argument

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<sup>1</sup> I think it not improbable that James himself fancied that he was describing some form of scholastic theory. It is scarcely necessary to insist that the Thomistic theory is utterly unlike the view here described by James. To deal adequately with the question, it would be necessary to summarize the lucid exposition of the whole problem of divine knowledge in the first book of the *Contra Gentiles*. And this cannot be done here. It is a fundamental principle, however, that the divine knowledge is in no sense discursive. Geometrizing and syllogizing are essentially human functions, although not merely 'human devices' in the pragmatist sense. 'Ex hoc autem ulterius habetur, quod divina consideratio non est ratiocinativa vel discursiva. Tunc enim ratiocinativa est nostra consideratio, quando ab uno considerato in aliud transimus, sicut syllogizando a principiis in conclusiones: non enim ex hoc aliquis ratiocinatur vel discurrit, quod inspicit qualiter conclusio ex praemissis sequatur, simul utrumque considerans; hoc enim contingit non argumentando, sed argumenta judicando; sicut nec cognitio materialis est ex hoc quod materialia dijudicat. Ostensum est autem quod Deus non considerat unum post alium quasi successive, sed simul omnia; non ergo cognitio ejus est ratiocinativa vel discursiva, quamvis omnium discursum et ratiocinationem cognoscat'—*Contra Gentiles*, bk. i. c. lvii. I hope to show later that the 'literal transcript' theory, the view that truths are 'exact and exclusive duplicates of pre-human archetypes buried in the structure of things' is not in any sense a scholastic theory, since, as St. Thomas puts it: 'verum proprie non est in rebus, sed in mente.'—*Contra Gentiles*, bk. i. c. lx.

somewhat more closely. The problem presented to theory of knowledge by the multiplicity of opinions and hypotheses is obviously not altogether a recent problem. But the aspect of the problem has in recent times somewhat changed owing to more perfect knowledge of the true method of science. To the mind that maintains an absolute truth one and single, these opinions and hypotheses may appear to be merely varied forms of error. And undoubtedly false views rashly conceived and incapable of verification are only too common. But in addition there are hypotheses which, it appears, can lay no claim to truth absolute and literal, but which a correct estimation of scientific progress shows to possess a peculiar value as provisional and working opinions. They are good so far as they go. They help to unify phenomena, they enable us to group details. In a word, they are useful and satisfactory for purposes of science. And the view is inevitably suggested to the mind that all truths may be of this nature, that truth is in its inner essence 'working hypothesis,' and that its only ultimate character lies in its success in winning and retaining human acceptance upon a wide scale. This is the conclusion of Pragmatism. It is no doubt merely a thinly veiled scepticism. But it is a scepticism of a peculiar type, a scepticism which, while abolishing absolute truth, will not allow us to believe what we like, but subjects us, as we shall see later, to manifold coercions in our thinking. It abolishes the title of absolute truth only to subject us to an absolutism of another type certainly as complete though far less intelligible. We shall see later that it fails to take account of the fact that there are cases in which the absolute character of truth cannot be denied without abolishing the possibility of thought altogether. In the case of self-evident truths and many truths of immediate perception the conditions that admit even the possibility of doubt are absent.

D. O'KEEFE.

[*To be continued.*]

## TWO FAMOUS IRISH MARRIAGE CASES

THE QUEEN *v.* MILLIS ; BEAMISH *v.* BEAMISH

## II.

*The Queen v. Millis in the House of Lords.*

THE Irish Court of Queen's Bench having, as a result of the withdrawal of Mr. Justice Perrin's judgment, decided, by a majority of two Judges to one, that the marriage of Millis with Hester Graham was void at common law and that Millis therefore could not be held guilty of bigamy,<sup>1</sup> the case was brought by the Crown to the House of Lords.

It may be well to state at the outset of this paper what it is that makes the decision of the House of Lords in the Millis case a suitable subject for detailed examination in these pages.

The Lords, as we shall see, decided that the marriage of Millis and Hester Graham was invalid, and that Millis consequently was not guilty of bigamy. This, in itself, could not be a matter of much general interest. But the case is very commonly described as if the decision went a great deal farther. The Lords, it is said, in deciding the particular case before them, took as the ground of their decision,—which thus, as the *ratio decidendi*, became an integral part of the decision,—that, under the common law of England, a marriage contracted, as was that of Millis and Hester Graham, *per verba de praesenti* only, without the presence of an ordained clergyman, was void.

Now if that view of the decision of the Lords were correct, and if the decision itself were correct, it would follow that, on a point of vital importance, the common law of England and the canon law of the Church, as it stood before the legislation of the Council of Trent, were directly

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<sup>1</sup> See I. E. RECORD, May, 1912, pp. 474, 475.



at variance, or that, in other words, the canon law of marriage was not received in Catholic England. We are here, then, face to face with a question that brings us to the root of what has come to be known in modern times as the 'continuity' theory of the Protestant Church of England,—the theory, that is to say, that in the time of Henry VIII. there was no breach of continuity in the English Church, so that the Protestant English Church of to-day is the same Church as that of the old Catholic times in England!

I venture to think that the view to which I have referred, of the import of the decision of the House of Lords in the *Millis* case, is a misleading one. The matter is at all events worthy of being carefully considered.

When the *Millis* case came to the House of Lords, it was there argued before a tribunal of six 'Law Lords,'—The Lord Chancellor (Lyndhurst), and Lords Brougham, Abinger, Campbell, Denman, and Cottenham.<sup>1</sup> It came on for hearing in February, 1843.

The counsel by whom the case was argued were: for the Crown, the Attorney-General (Sir Frederick Pollock) and the Solicitor-General (Sir William Follett);<sup>2</sup> and, for the Defendant, *Millis*, two Queen's Counsel of great eminence, Mr. Pemberton and Mr. Kindersley.<sup>3</sup>

<sup>1</sup> The Lord Chancellor of the time was Lord Lyndhurst (John Singleton Copley): he was three times Lord Chancellor (1827-30); 1834-35; 1841-46). Lord Brougham had already been Lord Chancellor (1830-35).

Lord Abinger (Sir James Scarlett) was then Chief Baron of the Exchequer (1834-44).

Lord Campbell had been Lord Chancellor of Ireland (1841); from 1850 to 1859 he was Lord Chief Justice of England, and from 1859 to 1861 Lord Chancellor of Great Britain.

Lord Denman was then Lord Chief Justice of England (1832-50).

Lord Cottenham had been Lord Chancellor of Great Britain (1836-41); he afterwards held the office a second time (1846-50).

<sup>2</sup> The Attorney-General at that time was Sir Frederick Pollock. In the year of the decision in the *Millis* case, 1844, he became Lord Chief Baron of the Exchequer, in succession to Lord Abinger (see the preceding footnote), then recently deceased.

The Solicitor-General was Sir William Follett, who became Attorney-General, on the promotion of Sir Frederick Pollock, in 1844.

<sup>3</sup> Mr. Pemberton, Q.C., was for many years undisputed leader of the Chancery bar. After having been for some years an active member of the

There were present during the argument, ten of the common-law Judges of England, who, in view of the importance of the questions raised in the case, had been called upon, in conformity with ancient practice, to assist the Lords by their advice upon such points as it might be found desirable to submit for their consideration. The Judges thus present were: The Chief Justice of the Common Pleas (Tindal); six Justices of the Courts of Queen's Bench and Common Pleas; and three Barons of the Court of Exchequer.

The arguments at both sides followed practically the same lines as the arguments in the Irish Court, and the questions put to the Judges when the arguments had closed were in substance the same as those that had been considered at the hearing in Dublin.

§ 1. *The Opinions of the English Common-law Judges.*

It was not found convenient to allow the Judges very much time for the consideration of the questions,<sup>1</sup> and the result was unsatisfactory in more ways than one. In ordinary course, when the Judges are called in to assist the Lords by their advice, they deliver their opinions individually, each stating the reasons by which he has been influenced,—except, of course, when there is such absolute agreement both as to the opinions and as to the reasons on which they are based, that one opinion can be delivered as representing the views of all.

In the *Millis* case, this usual course could not be taken. There was not time for the preparation of separate opinions. At first indeed the Judges were not all agreed even as to whether judgment should be given for *Millis* or for the Crown. Eventually,—but, as Chief Justice Tindal,

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Judicial Committee of the Privy Council, he was, in 1858, raised to the peerage as Baron Kingsdown.

Mr. Kindersley, Q.C., was promoted to the bench as a Vice-Chancellor in 1851, an office which he held with distinction until his retirement in 1866.

<sup>1</sup> The circuits were about to go out, and the Judges were requested to deliver their answers to the questions before leaving town for the assizes.

speaking for all the Judges, expressed it, 'only after considerable fluctuation and doubt,'—the minority 'acceded to' the opinion of the majority.<sup>1</sup> Thus it was unanimously agreed to advise the Lords that the marriage of Millis and Hester Graham was invalid, and that Millis consequently was not guilty of bigamy. A joint opinion to that effect was to be delivered on behalf of all the Judges by Chief Justice Tindal. But the Chief Justice was to explain, as of course he did, that his learned brethren were 'not to be held responsible for the reasoning' upon which he had 'endeavoured to establish the validity of that opinion.'<sup>2</sup>

The Opinion thus delivered by Chief Justice Tindal was, that by the law of England, as it existed at the time of the passing of the Marriage Act of 1753, a 'contract of marriage *per verba de praesenti* . . . never constituted a full and complete marriage in itself, unless made in the presence, and with the intervention, of a minister in holy orders.'<sup>3</sup>

Having enunciated his view, the Chief Justice proceeded to cite various authorities,—legal writers, judicial decisions, and Acts of Parliament,—in support of it. The authorities that he relied upon, and that had been relied upon by counsel for Millis in the argument at the bar of the House of Lords, were substantially identical with those that had been cited in the Irish Court of Queen's Bench, in proof of the invalidity of the marriage of Millis and Hester Graham.

Thus, for instance, several of the decisions referred to by Chief Justice Tindal, had reference to dower.<sup>4</sup> But these plainly proved nothing more than that a contract *per verba de praesenti* would not, under the common law, establish a right to dower. That, obviously, is a very different thing from proving that, under the common law, such a contract would not be a marriage.<sup>5</sup>

When touching upon this point in my former paper,

<sup>1</sup> 10 Cl. and Fin., 654.

<sup>2</sup> Ibid. 689.

<sup>3</sup> Ibid. 655.

<sup>4</sup> See I. E. RECORD, May, 1910, pp. 460, 461, 464, 465.

<sup>5</sup> See *ibid.* pp. 471, 472.



I reserved for quotation here the following passage from a modern English work of high authority :—

As to our temporal law from the middle of the twelfth century onwards, *it had no doctrine of marriage, for it never had to say in so many words whether a valid marriage had been contracted. Adultery was not, bigamy was not, a temporal crime.*

On the other hand, it had often to say whether a woman was *entitled to dower*, whether a child was *entitled to inherit*. About these matters it was free to make what rule it pleased. It was in no wise bound to hold that every widow was entitled to dower, or that every child whom the law of the Church pronounced legitimate was capable of inheriting.<sup>1</sup>

We may, then, pass on to the one point that is of permanent interest in the Chief Justice's statement,—a point that should not be allowed to pass unnoticed, in view of its connexion with the strange theory referred to at the beginning of this paper, that there was no breach of continuity between the Catholic church of the pre-Reformation period in England and the church that was set up in England by the anti-Papal statutes of Henry VIII.

Repeatedly, whilst the *Millis* case was passing through its earlier stages, the point had been pressed in argument by Counsel for the Crown when arguing for the validity of the marriage, that, both in England and in Ireland, marriage had been from the Norman times,—as it then still continued to be,—a matter of ecclesiastical jurisdiction; that thus, throughout all that time, the question of the validity of a marriage should be dealt with in an ecclesiastical court; that, in the ecclesiastical courts, the only law administered was the canon law; and that the canon law, from its promulgation in 1234 down to the time of the Council of Trent, never required for the validity of a marriage anything more than the consent of the contracting parties expressed *per verba de praesenti*.

This line of argument, however, had in all cases been met by the confident assertion that,—as Mr. Whiteside

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<sup>1</sup> Pollock and Maitland, *The History of English Law*, vol. ii. p. 372.

expressed it,—‘the canon law was never adopted in this country where it clashed with the general usages and laws of the land.’<sup>1</sup>

This view, still more definitely expressed, was embodied by Chief Justice Tindal in the Opinion which he delivered to the Lords, as follows :—

The law by which the Spiritual Courts Christian<sup>2</sup> of this kingdom have from the earliest times been governed and regulated, is not the general canon law of Europe, imported as a body of law into this kingdom and governing those Courts *proprio vigore*, but instead thereof, an ecclesiastical law, of which the general canon law is no doubt the basis, but which has been *modified and altered* from time to time by the ecclesiastical Constitutions of our Archbishops and Bishops and by the Legislature of the realm, and which has been *known from early times* by the *distinguishing title of The King's Ecclesiastical Law*.<sup>3</sup>

A detailed statement of the view thus enunciated by Chief Justice Tindal will be found in the Report of the Royal Commission of 1881-83 on the Ecclesiastical Courts of England and Wales, and, still more fully, in a notable Historical Appendix to that Report, written by Dr. Stubbs, then Canon of St. Paul's, afterwards Bishop of Oxford.

What we there read is substantially as follows : The ecclesiastical law of England,—that is to say, the law administered in the ecclesiastical courts of England,—from the Norman Conquest to the Reformation, was a ‘domestic’ code, based, no doubt, upon the general canon law of the Western Church, but quite independent of it. This English ‘domestic’ ecclesiastical law was enacted mainly in the Provincial Synods of Canterbury and York, under the influence of the great archbishops who occupied those sees in the thirteenth century. It was codified by the English canonist, William Lyndwood, who was Official Principal, or chief ecclesiastical official, of the

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<sup>1</sup> See *Report*, etc., p. 73.

<sup>2</sup> In other words, the Ecclesiastical Courts of England.

<sup>3</sup> 10 Cl. and Fin., 678.

Archbishop of Canterbury. Of this 'independent' English ecclesiastical code, Lyndwood was also the principal commentator.

§ 2. *An Old Fable confronted with the truth.*

As to the theory thus set forth as historical truth, it is sufficient here to say that never has any fiction been more completely overturned than this has been by Dr. F. W. Maitland, in the essays which he has collected and published under the title *Canon Law in the Church of England*.<sup>1</sup> And in Dr. Maitland's triumphant establishment of his case, Lyndwood, of all men, is his principal witness!

What Dr. Maitland has conclusively shown, so far as it concerns us here, may be summed up in one sentence: Throughout the Catholic times in England, the law administered in the English courts in matters of ecclesiastical jurisdiction was the general canon law of the Western Church, and there was no ecclesiastical authority in England deemed competent to set aside that law, or to alter it.

The following is a typical passage from Lyndwood. It clearly indicates what he would have thought of a system of law such as that in relation to which so prominent a part has been ascribed to him by Dr. Stubbs and others. Lyndwood says:—

Possunt archiepiscopi et episcopi constitutiones facere *juris communis declaratorias*, . . et ubi poena deficit in jure, possunt *poenas apponere*, et *veterem poenam augere*.

Possunt etiam constitutionibus papalibus *addere*, et eas *supplere*, et ad correctionem morum statuta facere, . . . *dum tamen jus commune non subvertant*. . .

Possunt etiam in his quae ad ipsorum jurisdictionem pertinent statuta facere, *dum tamen legibus generalibus non obstant*.<sup>2</sup>

In particular, as to the canon law of marriage,—the only section of the canon law with which we are concerned in these papers,—Dr. Maitland, by evidence of many kinds,

<sup>1</sup> See Maitland, *Canon Law*, etc., pp. 1-50.

<sup>2</sup> Lyndwood, *Provinciale*, p. 70, gl. ad v. *Juramento*. See Maitland, *The Canon Law in the Church of England*, p. 19, note 2.



and most especially by quotations from Lyndwood,<sup>1</sup> puts it beyond question that the canon law of the Church was the only law of marriage that England knew, from the time of its promulgation by Gregory IX., in 1234, to the revolt of Henry VIII. against the authority of the Holy See, in the sixteenth century.

Whilst thus proving his case, Dr. Maitland took care to state that he was in no way called upon to prove it. The burden of proof in this matter rests unquestionably with the other side. That England,—alone in this, amongst all the Catholic countries of Europe,—had a canon law of its own, is an assertion not to be accepted without proof. But when we look for proof, we look for it in vain.

Dr. Edmund Gibson, the learned author of the *Codex Juris Ecclesiastici Anglicani* approaches the point,<sup>2</sup> but only approaches it.

Of two proofs that he brings forward, the first is a reference to the preamble of a statute of 1534 (25 Hen. VIII. c. 21). This he cites as showing that, 'as well before the Reformation as since,' the only rules of the canon law that were of any authority in England were those that were regarded as adapted to the constitution of the English Church, and that were not at variance with the law of the land and had consequently been received by the people of England, who had 'by long use and custom' bound themselves to the observance of them.

<sup>1</sup> A work on the Canon Law in Medieval England has recently been published with the object of upholding the view taken of English ecclesiastical law by Dr. Stubbs,—that in the pre-Reformation times, the general canon law of the Church was not regarded, or treated, as of binding authority in the church courts of England. The author of it has striven, as best he could, to overturn the case so strikingly made out by Dr. Maitland. And in his attempted refutation of Dr. Maitland he too ventures to claim Lyndwood as his 'chief witness'!

It is not always easy to follow the author's line of argument in those passages in which he quotes Lyndwood as an authority in support of his view. But a fair idea of the merits of his method of controversy may, I think, be gathered from one fact.

See how he deals with the passage quoted from Lyndwood on the preceding page, a passage that might well be taken as in itself decisive of the whole controversy. He simply ignores it! That significant passage, so far as I can see, is neither discussed, nor quoted, nor even once referred to, in his pretentious volume of over two hundred pages!

<sup>2</sup> Gibson, *Codex*, I., xxviii.

In the preamble to the statute of 1534, 'we have,' he goes on to say, 'a plain declaration that foreign laws'—such as the provisions of the canon law,—become part of the laws of England 'by long use and custom.'

Now, in the preamble to which Dr. Gibson refers, we have, no doubt, 'a plain declaration' to the effect which he states. But that 'plain declaration' is an absolutely unsupported statement, incapable of proving anything. Though he had promised us,—to use his own words,—'no less warrant than an Act of Parliament,' his reference is, not to any enacting part of the statute of 1534, but to its preamble! That preamble sets forth a high-sounding statement that the people of England had never been subject to the laws of any foreign 'prince, potentate, or prelate.' But that is a mere statement, and of no authority whatever, except in so far as some independent proof of it might perhaps be forthcoming, but Dr. Gibson gives us none.

Moreover, the date at which that statement was put forward deprives it of all authority on the matter to which it refers. In 1534, when the statute was enacted, Henry VIII. had finally broken with the Holy See, and, having revolted against the authority of the only other possible ruler of the Church within his dominions, had set himself up as its head or supreme governor on earth. Then, as a not unnatural consequence, came this statute of 1534, with its denial that the canon law was of binding authority in England.<sup>1</sup> From that time forth, as a matter of course, the canon law,—save in so far as some of its provisions were accepted as binding, under the new-fangled designation of 'The King's Ecclesiastical Law,'—was no longer administered in the Ecclesiastical Courts of England.

The epithet 'new-fangled' applied to the designation 'The King's Ecclesiastical Law,' may seem perhaps some-

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<sup>1</sup> 'At the present day we shall not set much store by any statement about the mediæval law of the Church of England, made in the preamble of a statute in which King Henry already appears as that Church's supreme head.'—Maitland, *The Canon Law*, etc., p. 82.

what out of place in view of Chief Justice Tindal's statement, that it was by this 'distinguishing designation' that the ecclesiastical law of England,—the law alleged to be formed by the modification and alteration of the general canon law by English archbishops and bishops, and by the English Legislature,—'had been known from early times.'

Now what is the fact? The designation, 'The King's Ecclesiastical Law,'—which, to Lyndwood, as Dr. Maitland observes, would have been a contradiction in terms,—was unheard of in England until after the revolt of Henry VIII. against the authority of the Holy See had been finally consummated.

That designation makes its appearance for the first time in a statute of 1536 (27 Hen. VIII. c. 20, s. 1),<sup>1</sup> and thus subsequently to two of the most pronounced anti-Roman statutes of the reign,—one of which (20 Hen. VIII. c. 1) proclaimed the King to be the 'only Supreme Head on earth of the Church of England,' and the other (20 Hen. VIII. c. 2) made obligatory on both clergy and laity the taking of the 'Oath of Succession,' which, amongst other things, declared that the Bishop of Rome had no more authority within the realm than any other foreign bishop. Months, too, before the enactment of the statute of 1536, in which the new-fangled designation, 'The King's Ecclesiastical Law,' appeared for the first time, the heads of Cardinal Fisher and of Henry's former Chancellor, Sir Thomas More, had been struck off, for no other reason than that those venerable men refused to sin against their consciences by taking the statutory oath abjuring the Papal authority.

So much, then, for Dr. Edmund Gibson's reference to the anti-Papal statute of 1534, and to Chief Justice Tindal's reference to 'The King's Ecclesiastical Law,' as showing that England had in the pre-Reformation times a body of canon law of 'domestic' origin, distinct from the canon law of Rome and of the rest of Christian Europe.<sup>2</sup>

<sup>1</sup> See Holdsworth, *A History of English Law*, vol. i. p. 360, footnote 1.

<sup>2</sup> See, as to all this, Maitland, *The Canon Law*, etc., pp. 81, 82.



Possibly from a feeling that the post-Reformation statute of 1534 was inadequate to sustain a burden so weighty as that which he had sought to place upon it, Dr. Gibson goes on to refer us to an incident of much earlier date, when, as he tells us, 'the canon,'—meaning, of course, the provision of the canon law,—'for the legitimation of children born before marriage, was openly rejected as contrary to the laws of England.'<sup>1</sup>

The reference is to the well-known incident that has made so memorable the meeting of the King's Council at Merton in 1236.

In the Historical Appendix already mentioned, Dr. Stubbs tells the story, but only in the barest outline. Speaking of some books of the canon law, he says: 'The English Barons and the King [Henry III.] at the Council of Merton refused to allow *the national law of marriage to be modified by them*, and it was held that they were of no force at all when and where they were *opposed to the laws of England*.'<sup>2</sup>

Or, as the old Statute of Merton tells the story:—

Et rogaverunt omnes Episcopi Magnates ut consentirent quod nati ante matrimonium essent legitimi . . . quia Ecclesia tales habet pro legitimos: et omnes comites et barones una voce responderunt *quod nolunt leges Angliae mutare*,<sup>3</sup> quae hucusque usitatae sunt et approbatae.<sup>4</sup>

It would be out of place here to enter upon an examination of the various interesting questions that have been raised in connexion with the decision thus come to by the Council. We have to consider the incident at Merton in reference solely to the use that has been made of it by Dr. Gibson and by Dr. Stubbs and other writers, as proving that the canon law, as such, was of no force in England 'as well before the Reformation as since.'

<sup>1</sup> Gibson, *Codex*, I. xxviii.

<sup>2</sup> Stubbs, *Historical Appendix*, p. 25.

<sup>3</sup> 'We have no authoritative text of this famous resolution, but the last word of it seems to have been *mutare*, not *mutari*.'—Pollock and Maitland, *History of English Law*, vol. i. p. 167 (6).

<sup>4</sup> *Statutes of the Realm*, vol. i. p. 4. See also Bracton, lib. 5, tr. 5, cap. xix. n. 2.

The view taken of the incident at Merton by those writers,—and indeed until quite recently by almost all Protestant writers on the legal and constitutional history of England,—has at all events the merit of simplicity.

It may be summed up thus :—On a question of great practical importance, namely, whether the issue of unmarried parents, born out of wedlock, is legitimated by their subsequent marriage, the canon law of the Church was at variance with the law of England. By the canon law the issue would be legitimated by the subsequent marriage ; by the English law it would remain illegitimate. On behalf of the Church, the claim was made that the canon law should prevail. That claim, when it was put forward in the King's Council, was rejected, and it was rejected in the memorable words, '*Nolumus leges Angliæ mutare,*' which, once for all, proclaimed the supremacy of English law over the canon law of Rome, and thus established the principle, afterwards set forth in the preamble of the Tudor statute of 1534, that the canon law was of no force within the realm of England.

Now, widely as the view thus stated of what took place at Merton has found acceptance amongst English writers, nothing can be more obvious than that, in every point of substance, it is erroneous, and can have had its origin only in an unaccountable misapprehension of the true bearings of the case.

First, we are told that what the bishops sought to have changed was, as Dr. Stubbs expresses it, 'the national law of marriage' which they wished to see brought into conformity with the canon law of marriage. Now, this was not so, nor could it by any possibility have been so. For there was at that time no English law of marriage distinct from the canon law. The canon law of marriage, as Dr. Maitland has conclusively shown, was the only marriage law then known in England.

If there was any subject which at that time belonged exclusively to the ecclesiastical forum in England it was marriage. The scraps of provincial legislation that could be

dignified with the name of English marriage law were but supplementary to the canon law, and were both few and insignificant.<sup>1</sup>

What, then, was the law that the bishops wished to see changed? It was a law clearly distinct from the law of marriage: it was the law of inheritance, a matter with which the canon law had nothing to do.

According to the law of England, children born before the marriage of their parents are illegitimate, and they are not legitimated by a subsequent marriage of their parents. Being illegitimate, they are incapable of inheriting real property in England, and, speaking generally, they are incapable also of sharing in the goods of an intestate under the Statute of Distributions. These are the chief, if not the only, incidents of illegitimacy in English law. But those incidents of illegitimacy are in no way touched by the canon law, which, consequently, does not touch the English law of inheritance at all.

Illegitimacy in the canon law has to do with matters of a quite different nature: it is a disqualification for promotion to orders or for appointment to a benefice, and it has nothing whatever to do with the inheritance of property.<sup>2</sup>

Conflict, then, between the canon law and the law of England, being impossible,—whether as regards the law of marriage on the one hand, or as regards the law of inheritance on the other,—what becomes of the fable that the barons at Merton refused to allow ‘the national law of marriage’ to be modified by the provisions of the canon law, or that, as Dr. Gibson puts it, ‘*the canon for the legitimation of children born before marriage was openly rejected as contrary to the laws of England*’?

<sup>1</sup> See Maitland, *The Canon Law*, etc., pp. 38-40.

<sup>2</sup> In their commentaries on the 27th title of the 3rd book of Decretals, the canonists explain the rules of inheritance of the Roman Civil law, which in this matter was the *jus commune* of Europe for centuries after the incident at Merton.

The Church, having no law of inheritance of her own, adopted that of the Roman Civil law, as a reasonable law to serve for ecclesiastical as well as civil purposes, but always subject to the proviso that it was *not superseded* for civil purposes in any particular country by the legislation of that country.

‘Haec omnia,’ says Schmalzgrueber (in loc.) ‘ita se habent de jure communi. Praeter haec, spectanda sunt etiam *statuta particularia, et consuetudo cujuslibet loci.*’



At Merton, the bishops undoubtedly strove to have the English law of inheritance altered so that children born before the marriage of their parents would, if their parents subsequently married, acquire the right of inheritance. Whatever may have been the merits of the proposal,—and as to this, recent English authorities are by no means unanimous,—the bishops were unquestionably within their rights in making it. As members of the King's Council, the future Parliament of England, they were the 'spiritual peers' of that time, and, to all intents and purposes, they were in a position the same as that of the 'Lords spiritual' in the House of Lords of the present day. On the other hand, the '*comites et barones*' were as fully within their rights in objecting to the change proposed by the bishops as the bishops were in proposing it.

It may be well to explain here what it was that led the bishops of England at the time to desire that any change should be made in the English law of inheritance.

When a question as to the validity of a marriage arose,—in the course, for instance, of a claim to the ownership of property,—the question of the marriage, as has been mentioned in my former paper,<sup>1</sup> was handed over by the temporal court to the ecclesiastical court for decision. The decision of the ecclesiastical court was then notified to the Judge of the temporal court, who applied it to the case before him, and decided the case in accordance with it. Behind the certificate of the bishop as to the validity or invalidity of the marriage, he could not go.

In all this there was no difficulty. The matters thus sent for judgment to the ecclesiastical court were matters of ecclesiastical jurisdiction, and the bishop or his qualified representative, administering the ecclesiastical law in the ecclesiastical court, gave judgment in them accordingly.

But the cases sent to the ecclesiastical court for judgment were not always cases of this description. The plea that *A.B.* was not born in lawful wedlock,—'*non est ex legitimo*

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<sup>1</sup> See I. E. RECORD, May, 1912, p. 455.

*matrimonio natus,*'—might mean either (1) that the parents of *A.B.* were not validly married, or (2) that, whilst there was no question of the marriage, or of the validity of the marriage, of *A.B.*'s parents, *A.B.* was born before that marriage took place.

In the first case, the question would be, Marriage or no marriage? In the second it would be, Born before or after marriage? The first, it was admitted on all hands, was a question to be decided by the ecclesiastical law, in an ecclesiastical court. The second had nothing whatever to do with the ecclesiastical law, or with any ecclesiastical court. It was a question of fact, and therefore a question rather for a jury,—in so far as juries, in the sense in which we now understand the word, existed at the time.

For a time the practice of sending such a question to the ecclesiastical court seems not to have given rise to any difficulty. But towards the close of the twelfth, or beginning of the thirteenth century, the ecclesiastical judges objected to being called upon to adjudicate upon such a question as that of a child's birth. The canon law,—the only law that they were competent to administer,—knew nothing of such questions.

At length the bishops took a very decided step. They declined to answer such questions at all. They would, if required, answer the question, 'Legitimate or illegitimate?' But they made it known that if that question were put to them, they could answer it only on the lines of the canon law, the only law that could with propriety be administered in their courts. The obviously proper course would have been to keep such questions in the temporal courts, to be dealt with there. But for some reason or other, hard to conjecture, that course did not commend itself to the civil authority.

It was whilst this matter was in suspense that the Council met at Merton, and there need be little wonder that the bishops took the opportunity of raising the question there, with the view of bringing about a working settlement of the difficulty on the only line that seemed to be open.

They failed, however, to carry their motion. The majority was against them, and, apparently, they were obliged, much as they disliked it, to go on answering the question, 'Born before or after marriage,' as before.

§ 3. *A Law Lord's comment on Chief Justice Tindal's Opinion. The Judgments of Lords Brougham, Abinger, Campbell, and Denman.*

We may now resume our consideration of the proceedings in the case of *Millis* in the House of Lords.

The delivery of Chief Justice Tindal's Opinion was immediately followed by a somewhat combative speech from Lord Brougham. He referred to the 'fluctuation and doubt' which, as the House had just been informed, had for a time hindered some of the Judges from acceding to the view taken by the majority; and to the fact that the Chief Justice alone was responsible for the reasons which he had put forward in support of the conclusion eventually adopted by all the Judges. Especially since some of the Judges had at first taken a different view of the case, Lord Brougham regretted that there was not from the Judges themselves a statement of the reasons by which each of them had been influenced.

The conclusion they had come to was, he said, a 'startling' and a 'novel' one. It came to this, that at a time when all Christian Europe was living under the same system of Christian faith and the same system of ecclesiastical polity, England formed a solitary exception, adopting a principle 'not only irreconcilable with, but in diametrical opposition to, the polity and the legal and ecclesiastical system of all Christian Europe.'<sup>1</sup>

Then, after a reference to Lord Stowell's judgment in the *Dalrymple* case,<sup>2</sup> he passed on to another topic,—the various disastrous consequences that would result in Ireland if the conclusion arrived at by the Judges was endorsed by the Lords.<sup>3</sup>

<sup>1</sup> 10 Cl. and Fin., 691.

<sup>2</sup> See I. E. RECORD, May, 1912, pp. 459, 465, 466.

<sup>3</sup> 10 Cl. and Fin., 693-697.



Then the case was adjourned, and, in due course, judgment was delivered. The Lords were divided in opinion.

Lord Brougham was the first to give judgment. He spoke emphatically of the loss which the Lords had sustained from the way in which the Judges had had to answer the questions submitted to them.

The answer purported to be unanimous, but the more important matter of the reasons urged to support that answer was not so represented. Then there was the fact that, after the argument at the bar, some of the Judges,—and it was not said how many,—felt ‘considerable fluctuation and doubt,’ and had only ‘acceded to the opinion of the majority’ upon grounds which were not stated with any certainty, nor were even capable of being inferred from the opinion of the Chief Justice.<sup>1</sup>

And he added, with obvious force :—

The opinions of the learned Judges are resorted to by your Lordships, not to decide the question before you, but to give you information, suggestions, and, generally speaking, assistance, in forming your own. It therefore becomes necessary that their reasons should accompany these decisions, and accordingly they are invariably required.

If indeed any difference were to be made in the value which we attach to the opinions and to the reasons, we should certainly regard the reasons as the more valuable of the helps which we derive from those learned persons.<sup>2</sup>

He then proceeded to consider the case of the Millis-Graham marriage in its different bearings.

He analysed the various authorities that were cited in Chief Justice Tindal’s Opinion, with the view of showing that they were far from proving what they were adduced by the Chief Justice to prove. He explained the principle of the Roman civil law, which treated marriage as a mere consensual contract. On that law was based the canon law, which was the law of the ecclesiastical courts, and was,

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<sup>1</sup> See 10 Cl. and Fin., 699, 700.

<sup>2</sup> Ibid. 700.

therefore, the law of marriage in England, as elsewhere throughout Europe, previous to the marriage law of 1753, as it was the law of marriage in Ireland still.

It is clear, said Lord Brougham, that by this law,—the universal law of Europe before the Council of Trent,—‘the marriage contract could be validly entered into’ by the parties consenting to take each other for man and wife, without the intervention of the sacerdotal office, or the presence of anyone in holy orders.<sup>1</sup>

In illustration of this, he quoted the Decretal of Alexander III. referred to in my former paper.<sup>2</sup> That Decretal, promulgated in 1234 by Gregory IX. as a part of the general canon law of the Church, distinctly enacted that if there was a consent *de præsenti*, expressed in words expressive of such a consent, there was a valid marriage.

Lanfranc’s Synod of Winchester, in 1076, had been referred to by Chief Justice Tindal. But, asked Lord Brougham, ‘would Archbishop Lanfranc himself have denied that Pope Gregory IX. had authority to overrule him?’<sup>3</sup>

On the Quaker and Jewish marriages he dwelt at considerable length. Lord Harkwicke’s Act of 1735 had done nothing to make those marriages valid. It left them simply as they stood at common law. If the marriage of Millis and Hester Graham was invalid on the ground that it had not taken place in presence of a clergyman in holy orders, then all Jewish and Quaker marriages that had taken place within the realm before the Act of 1836<sup>4</sup> were invalid, so that,—

every Quaker and every Jew born before 1835 is by the learned Judges pronounced to be a bastard; the mother of each and every one of these to be living in concubinage; every married

<sup>1</sup> 10 Cl. and Fin., 719.

<sup>2</sup> See I. E. RECORD, May, 1912, p. 468.

<sup>3</sup> 10 Cl. and Fin., 719 and 724.

<sup>4</sup> By the Act of 1836, here referred to (6 and 7 Will. IV. c. 85), it was enacted ‘that the Society of Friends, commonly called Quakers, and also persons professing the Jewish religion, may continue to contract and solemnise marriage according to the usages of the said Society and of the said persons respectively; and every such marriage is hereby declared and confirmed good at law.’

pair of these sects may separate, and marry again without committing a felony ; and every title to an estate, wheresoever situated out of Scotland, that is traced through a pedigree any link of which is a Quaker or a Jewish heir, must be shaken to its foundation, unless propped up by the Statute of Limitations and the lapse of long time.<sup>1</sup>

As regards the Jews, the Opinion of the Judges delivered by Chief Justice Tindal had sought to set up the theory 'that the Jews are quasi-foreigners, and that therefore they are a law unto themselves.' But, said Lord Brougham, they are not foreigners, and even if they were, their laws and their usages could not exempt them from the operation of English law if they chose to marry in England. And, he added, 'even were we to admit the doctrine [laid down by the Judges] as to the Jews, the Quaker marriages would remain annulled ; and that is quite enough for my argument.'<sup>2</sup>

To sum up, then, his argument upon this point : if the marriages of Quakers and Jews in England were valid,—as no one would question that they were,—they were valid at common law, and therefore the common law did not regard it as essential to the validity of a marriage that there should be present a clergyman in holy orders.

But, of course, Lord Brougham regarded a marriage contracted without the presence of a priest as irregular.<sup>3</sup> Expressions such as 'marriages irregularly contracted,' 'merely civil or irregular marriage,' 'irregular and merely civil or lay, yet valid,' occur throughout his judgment, and he called attention to the fact that in Scotland, such a marriage, though valid in that country, 'incurs the censures of the Church.'

The only other point in Lord Brougham's judgment that need be noticed here is the view that he took of

<sup>1</sup> 10 Cl. and Fin., 738.

<sup>2</sup> Ibid. 738, 739.

<sup>3</sup> It will be remembered that in the canon law, such marriages, whilst they were upheld as valid, were reprobated in the strongest terms. See I. E. RECORD, May, 1912, pp. 468, 469.



Lord Stowell's judgment in *Dalrymple v. Dalrymple*. He expressed surprise at the way in which Lord Stowell's exposition of the English Law of marriage in that judgment,<sup>1</sup> had been put aside by the Judges: Chief Justice Tindal, speaking in their name, had described it as 'uncalled for and extrajudicial.'<sup>2</sup>

But, said Lord Brougham, even if these *dicta*, as they are termed, of this great Judge, were mere '*dicta* and wholly extrajudicial, they would be entitled to unbounded respect.'<sup>3</sup> And, in the course of a warm panegyric on Lord Stowell, he went on to speak of his judgment as 'this memorable judgment,' upon the merits of which it was only—

bestowing at once the most just and the highest praise to say that it excels all the other performances of its eminent author, whether we regard the clearness of its positions, the close texture of its reasonings, the singular felicity of its diction, or the careful avoiding of all superfluous discussion.<sup>4</sup>

To represent, he said, that part of Lord Stowell's judgment which deals with the marriage law of England as extrajudicial, 'is one of the most extravagant suppositions which man can make.' And he then went on to show, by an analysis of the judgment, that Lord Stowell's exposition of the marriage law of England formed an important part of the train of reasoning by which he supported his decision of the case before him.<sup>5</sup>

Lord Brougham concluded by moving that judgment be given for the validity of the marriage, and therefore for the Crown.

Lord Abinger followed. In a brief and curiously formless judgment he expressed himself in agreement with the Opinion delivered by Chief Justice Tindal. But, in depreciation of

<sup>1</sup> See I. E. RECORD, May, 1912.

<sup>2</sup> 10 Cl. and Fin., 680.

<sup>3</sup> '*Obiter dictum* is an expression of opinion formed by a Judge on a question immaterial to the *ratio decidendi*, and unnecessary for the decision of the particular case.'—*Encyclopædia of the Laws of England*, art. '*Obiter dictum*.'

<sup>4</sup> 10 Cl. and Fin., 732.

<sup>5</sup> *Ibid.* 735.

his own view of the case, he added the remark, strangely out of place in a decisive judgment in the supreme appellate tribunal of the realm :—

Those who have taken the trouble [!] to investigate and make written notes of the authorities have, of course, an advantage over me ; I profess to adhere to the opinions which I had formed on consideration of the arguments at the bar.<sup>1</sup>

Lord Campbell came next. In a long and elaborate judgment he concurred in practically every point that had been relied upon by Lord Brougham, and he therefore held that Millis and Hester Graham were validly married, and that judgment should be given for the Crown.<sup>2</sup>

He discussed, of course, the various authorities that had been relied upon in the statement of Chief Justice Tindal, none of which he considered capable of supporting the conclusion at which the Judges had arrived.

Throughout Lord Campbell's judgment there are not a few points of general interest. One may be mentioned here.

He gave, for instance, a striking illustration of how fallacious it was to infer,—as had so frequently been done throughout the Millis case,—that because contracts of marriage entered into *per verba de praesenti*, without the intervention of a clergyman, are strongly condemned in ecclesiastical and other legislation, it is therefore to be considered that they are not valid marriages. The emphatic words of the Council of Trent upon this point are quoted in my former paper.<sup>3</sup> But Lord Campbell's illustration is of special interest from its personal character. He said :—

In Scotland there may be a valid marriage *per verba de praesenti* without the intervention of a priest ; and I can state of my own knowledge,—being the son of a minister of the Church of Scotland, and *having myself been present at such proceedings*,—that the parties who have been living together as man and wife

<sup>1</sup> 10 Cl. and Fin., 742-746.

<sup>2</sup> Ibid. 746-803.

<sup>3</sup> See I. E. RECORD, May, 1912, pp. 468, 469.

after an irregular marriage are considered as liable to church censure, and are not admitted to the communion of the church until they have been censured and have expressed their regret for not having complied with the rules of the church: but that the marriage [so contracted] is *ipsum matrimonium*, has never been doubted.<sup>1</sup>

Lord Denman was the next to give judgment. Like Lord Brougham and Lord Campbell, he held that the marriage of Millis and Hester Graham was valid at common law, and that Millis was therefore guilty of bigamy. And, of course, like them, he also held that such a marriage was irregular, and informal, and subject to be characterized by many such deprecatory epithets.

His judgment is in several respects a most interesting one, but I must content myself here with transcribing his observations upon one point only. They seem to throw a flood of light upon the case in its general bearing:—

The great mistake (if I may so express myself without offence) which appears to have been committed is that of *reversing the order of proof*.

The burden has been supposed to lie upon those who assert that a marriage may be lawful without the intervention of a priest. Now, I most confidently maintain that marriage, being a civil contract flowing from the natural law, must be taken as lawful till some enactment which annuls it can be produced by those who deny its lawfulness. . . .

If marriage had been a newly-discovered species of contract which the ruling powers thought likely to be beneficial and therefore determined upon introducing, there might be strong reason for throwing the burden of proof on those who assert the validity of the marriage. The creatures of positive law can only exist in the form in which that law created them. But the institution of marriage is older than any law. It may be said to exist by the common law of all mankind, subject to all the varying forms which expediency may dictate, and to any consequences that legislation may attach to the neglect of them; but subject to these alone.<sup>2</sup>

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<sup>1</sup> 10 Cl. and Fin., 754, 755.

<sup>2</sup> Ibid. 806, 807, 811.



Where, then, he asked, and when, and by whom,—abstracting, of course, from the enactment of the Council of Trent, which could not be recognized in English law,—was any law enacted requiring the presence of a clergyman as essential to the validity of a marriage? No account, he said, can be given of the date of any such law, or of the occasion of its passing, or of the authority by which it was established.

Lord Denman too was careful to point out what it was that should be produced,—not mere exhortations, denunciations, reproachful names cast on certain marriages and married persons, but some authority *promulgating a law that if a marriage is not solemnized in the manner prescribed, it is invalid*.<sup>1</sup>

Lord Denman's high idea of the importance and authority of Lord Stowell's judgment, so often referred to, is sufficiently indicated by the words quoted in my former paper.<sup>2</sup>

#### § 4. *The Judgments of Lord Cottenham, and the Lord Chancellor.*

After an adjournment to the following February, judgments were delivered by the Lord Chancellor and by Lord Cottenham. It will be convenient to take Lord Cottenham's judgment first.

He held that the marriage of Millis and Hester Graham was invalid, and, to prove that it was invalid, he took up, one by one, what he described as the 'tests' by which 'the validity of a marriage is to be tried.' Having mentioned, as tests, five consequences that follow from a marriage duly celebrated, he said: 'There is clear authority that none of these consequences followed from a contract of marriage *per verba de praesenti* without the intervention of a person in holy orders.'<sup>3</sup>

First, he said, such a contract did not give to the woman the right of a wife in respect to dower.<sup>4</sup>

<sup>1</sup> 10 Cl. and Fin., 808.

<sup>2</sup> See I. E. RECORD, May, 1912, p. 547, footnote 1.

<sup>3</sup> 10 Cl. and Fin., 878.

<sup>4</sup> Ibid. 878-880.

Secondly, it did not give to the man the right of a husband in the property of the woman.<sup>1</sup>

Thirdly, it did not confer upon the issue the rights of legitimacy.<sup>2</sup>

Fourthly, it did not impose upon the woman the incapacities resulting from the husband and wife being one person in law.<sup>3</sup>

So far, it is sufficiently obvious that, in Lord Cottenham's enumeration of the so-called 'tests,' there is question, not of what is required to constitute a valid marriage, but of what is required to constitute a marriage to which certain rights, or certain incapacities, relating to property were attached by the law of England.<sup>4</sup> The fifth, however, of the 'tests' applied by Lord Cottenham, is not affected by this consideration.

Fifthly, then, he said, a contract *per verba de praesenti* did not make void a marriage subsequently entered into by one of the parties during the lifetime of the other.<sup>5</sup>

This he put forward as a proposition as to the truth of which no doubt had been raised, or could be raised. A subsequent marriage, he said, was voidable only, not void: it was good therefore until it was set aside: since, then, there cannot be two marriages of the same person subsisting at the same time, the previous contract *per verba de praesenti* cannot have been a marriage.<sup>6</sup>

But before we accept this reasoning, should we not look at the case from another side? May we not ask, If the subsequent marriage was a good one, how could it be made void? Questions of the validity of marriage were dealt with in the ecclesiastical courts. Is it seriously suggested that, in the old Catholic times in England, the bishop of a diocese, or the official presiding as representative of the bishop in the ecclesiastical court of a diocese, had

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<sup>1</sup> 10 Cl. and Fin., 880-883.

<sup>2</sup> Ibid. 883-886.

<sup>3</sup> Ibid. 886, 887.

<sup>4</sup> I. E. RECORD, May, 1912, pp. 460, 461, 471, 472.

<sup>5</sup> 10 Cl. and Fin., 887.

<sup>6</sup> Ibid.

amongst his other judicial duties the dissolving of valid marriages? Whether in the ecclesiastical, or in the civil courts, divorce *a vinculo matrimonii* was then unknown in England.<sup>1</sup>

But, as we know, matrimonial causes were dealt with by the ecclesiastical courts. There, at all events, whatever else the word 'voidable' might mean, it could not mean that a valid marriage could be set aside as void. If, then, the subsequent marriage was 'voidable,'—that is to say, if it could be set aside as void, or be declared to be void, by a judgment of the ecclesiastical court,—this must have been because that marriage had been void *ab initio*. And there was nothing to make it void *ab initio* but the validity of the prior marriage that was contracted simply *per verba de praesenti*.

To see how this matter really stood under the canon law we have only to call to mind a point stated in my former paper. Marriages contracted *per verba de praesenti* without the presence of a clergyman, though they were valid, were always held in abhorrence by the Church. As we have it from the Council of Trent :—

Sancta Dei Ecclesia ex justissimis causis illa semper detestata est atque prohibuit.<sup>2</sup>

There were many drawbacks to which those who contracted such marriages were subjected. One of them was that no account would be taken of any such marriage in court until the fact of its having been contracted had been duly proved. In other words, the presumption<sup>3</sup>

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<sup>1</sup> The commission appointed by Henry VIII. to 'reform' the ecclesiastical law of England drew up the report known as the *Reformatio Legum*. This recommended the introduction of divorce *a vinculo*, but it never became law. 'The Matrimonial Causes Act' of 1857, first authorized the granting of such divorces by a court in England.

The procedure of divorce by private Act of Parliament was first had recourse to in 1669.

<sup>2</sup> See I. E. RECORD, May, 1912, pp. 468, 469.

<sup>3</sup> Ibid. p. 470, footnote 2.



was against them, so that if one of the parties to such a marriage contracted another marriage in presence of a clergyman, a court would presume this second marriage to be good,—that is to say, it would be treated as good until it was proved to be invalid, as, for instance, by its being established in court that there had been a prior marriage, both parties to which were still living. But when once it was proved that there had been a prior contract, made simply *per verba de praesenti*, the second marriage would be declared void. And the only possible meaning of this was that the second marriage had been void *ab initio*,<sup>1</sup> and the only possible reason of its invalidity *ab initio* was the validity of the prior contract *per verba de praesenti* as a true marriage.

One other judgment remains to be considered, that of the Lord Chancellor, Lord Lyndhurst. He discussed at considerable length two questions: first, whether by the law of England previous to the Marriage Act of 1753, a marriage contract, entered into *per verba de praesenti* only, constituted a valid marriage; and secondly, whether it moreover produced all those legal effects and consequences that follow from a marriage duly solemnized *in facie ecclesiae*.

In answer to the first of these questions, Lord Lyndhurst,—whilst speaking of marriages contracted without the presence of a priest as an 'irregular and looser<sup>2</sup> sort of marriage, and as marriages that did not confer those rights of property, or the more important right of legitimacy, consequent on marriage duly solemnized according to the rites of the church,'—held distinctly that by the common law such marriages were valid.

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<sup>1</sup> See pp. 597, 598, for an important reference to this in the judgment of the Lord Chancellor.

<sup>2</sup> 'Looser' as regards the less formal way in which it was contracted, but certainly not as to its binding effect. Lord Lyndhurst, as we shall presently see, held that marriages so contracted were, in the full sense of the word, indissoluble.

The legal effects, at common law, of such a marriage were, in Lord Lyndhurst's words, as follows :—

Such a contract entered into between a man and a woman was indissoluble : the parties could not by mutual consent release each other from the obligation.

Either party might by a suit in the Spiritual Court compel the other to solemnize the marriage *in facie ecclesiae*.

It was so much a marriage, that if they cohabited together before solemnization, they could not be proceeded against for fornication, but merely for contempt. If either of them cohabited with another person, the parties might be proceeded against for adultery.

The contract was considered to be of the essence of matrimony, and was therefore, and by reason of its indissoluble nature, styled in the ecclesiastical law *verum matrimonium*, and sometimes *ipsum matrimonium*.

Another and most important effect of such a contract was, that if either of the parties afterwards married with another person, solemnizing the same *in facie ecclesiae*, such marriage might be set aside,<sup>1</sup> even after cohabitation and the birth of children, and the parties compelled to solemnize the first marriage *in facie ecclesiae*.

Such were the effects of a contract of marriage *per verba de praesenti*.<sup>2</sup>

In support of all this, Lord Lyndhurst quoted various authorities, and amongst them, Swinburne,<sup>3</sup> who placed in a contract *per verba de praesenti* without the intervention of any clergyman, 'the substance and indissoluble knot of matrimony.'<sup>4</sup>

He quoted also Lord Stowell, 'the most learned ecclesiastical lawyer of his age,' who, in his judgment in *Dalrymple v. Dalrymple*, 'so often referred to, and never without just praise,' distinctly stated that 'the consent of two persons expressed in words of present mutual

<sup>1</sup> See *ante*, p. 593.

<sup>2</sup> 10 Cl. and Fin., 832.

<sup>3</sup> See I. E. RECORD, May, 1912, pp. 464, 465, 471, 472.

<sup>4</sup> 10 Cl. and Fin., 833; and see I. E. RECORD, May, 1912, pp. 471, 472.

acceptance, constituted *an actual and legal marriage*,<sup>1</sup> and Blackstone, who tells us that such a contract was, before the Marriage Act, deemed 'a *valid marriage to many purposes*.'<sup>2</sup> After quoting Blackstone, Lord Lyndhurst added :—

It is obvious that the learned commentator considered this statement of the law of marriage<sup>3</sup> as free from all doubt, for he did not think it necessary to cite any authority in support of the position.<sup>4</sup>

And, after quoting Swinburne, and Lord Stowell, and Blackstone, Lord Lyndhurst went on to say in significant words that need no comment,—

I think your Lordships will be of opinion that these references, *which might, if necessary, be greatly extended*, sufficiently establish what I have stated as to the nature and effect of a contract of marriage *per verba de praesenti*, and in opposition to which, I conceive, *no authority has been, or can be, adduced*.<sup>5</sup>

As already stated, one of the 'legal consequences and effects' of a contract *per verba de praesenti* to which Lord Lyndhurst directed attention, is that a marriage, even though duly solemnized *in facie ecclesiae* and followed by the birth of children, would be set aside by the court on proof that one of the parties to the marriage had previously been married to another person *per verba de praesenti*, and that the two parties to that contract were still living. In reference to this, he made an observation that would seem to have an important bearing on the meaning of the statement already commented on in this paper,<sup>6</sup> that in such a case the subsequent marriage is voidable, not void.

For he referred to a decree that had been issued by the archiepiscopal court of York in a case in which there

<sup>1</sup> 10 Cl. and Fin., 834.

<sup>2</sup> See *ibid.* 839.

<sup>3</sup> See 1 Blackstone, 40.

<sup>4</sup> 10 Cl. and Fin., 839.

<sup>5</sup> *Ibid.* 839.

<sup>6</sup> See pp. 593, 594.



was a marriage contracted without solemnization,<sup>1</sup> and a subsequent marriage duly solemnized *in facie ecclesiae*.

In that case, the prayer of the petition was that the second and duly solemnized marriage should be declared, not only 'to be,' but '*to have been*,' null and void, and the decree was passed precisely in those terms, '*fuisse et esse invalidum*.'<sup>2</sup> The second marriage, then, was declared void *ab initio*, and it was void by reason of the prior contract. That prior contract, therefore, was a valid marriage.

Lord Lyndhurst mentioned,—as had indeed been mentioned in some of the previous judgments,—that if the subsequent marriage was not annulled by sentence of the ecclesiastical court in the lifetime of the parties, it could not be annulled afterwards: 'the widow of that subsequent marriage would have her dower, and the children would be legitimate.'<sup>3</sup>

It may perhaps be asked why was it that the court would not, after the death of one of the parties to the marriage as well as during the lifetime of both, allow proceedings to be instituted to have the second marriage declared an invalid one?

The reason is sufficiently obvious. The only court that had to do with the validity or invalidity of marriages,—or, in other words, with what Swinburne called 'the knot or bond of matrimony,' by which the man and woman are made 'very husband and wife,'—was the ecclesiastical court. During the lifetime of the parties to the first marriage, the ecclesiastical court, if appealed to, would, of course, exercise its jurisdiction to bring to an end the adulterous subsequent marriage by declaring that marriage void. But when that marriage had been brought to an end

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<sup>1</sup> Before the marriage legislation of the Council of Trent, marriage could be contracted without solemnization in either of two ways: (a) *per verba de praesenti* only, or (b) *per verba de futuro*, followed by cohabitation.

The marriage referred to in the text above was of the latter kind. Such a contract, said Lord Lyndhurst, was, 'in its legal effect and consequences, the same as a contract *per verba de praesenti*.' (10 Cl. and Fin., 842.)

<sup>2</sup> Ibid. 842.

<sup>3</sup> Ibid. 843.

by death, the only questions that remained regarded certain rights in reference to property,<sup>1</sup> with which, except in one particular, the ecclesiastical court had nothing whatever to do.

There was, however, one right in reference to property, with which the ecclesiastical court had a great deal,—indeed everything,—to do. A widower had a right to the administration of the personal property of his deceased wife, and a widow had a right to the administration of the personal property of her deceased husband. Now, the administration of the personal property of intestates was under the jurisdiction of the ecclesiastical court alone. Yet in the case of a marriage contract *per verba de praesenti* only, if the wife died, the ecclesiastical court would not recognize the widower as having any right to the administration of the goods of the deceased.

But this by no means shows that the ecclesiastical court did not recognize such a contract as a valid marriage. It simply shows that the contract entered into *per verba de praesenti* only, without the intervention of a clergyman, was a marriage in respect of which,—contracted, as it had been, in disregard of a stringent ecclesiastical prohibition, ‘*Ecclesia ex justissimis causis . . . semper detestata est atque prohibuit*,’—an ecclesiastical court would not exercise its jurisdiction for the purpose of conferring upon a person so married any favour or advantage.

As it happens, there is on record a case, *Hayden v. Gould*, strikingly illustrative of all this. It was referred to by Lord Brougham and Lord Lyndhurst in their judgments in the *Millis* case. This was a case of contract *per verba de praesenti* only. The wife died, and the husband came into court, claiming the administration of her goods. Administration was refused, and on what grounds? Was it on the ground that there was no marriage, and that the claimant therefore was not the husband of the deceased woman? Nothing of the kind. ‘The ground of the decision,’

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<sup>1</sup> See I. E. RECORD, May, 1912, p. 472; and *ante*, pp. 592, 593.

explained Lord Brougham, 'is distinctly stated to have been, that when a husband claims the right of a husband under the ecclesiastical law, he must prove himself to be a husband according to that law; that is, in the manner which the ecclesiastical law approves.

'It is added that the wife, who is the weaker sex, and the child . . . which was in no fault, might have had administration,<sup>1</sup> but not the husband, who was in fault.

'He is treated as a wrongdoer, and, as a matter of discipline, the Courts Christian will not countenance his conduct in contracting an irregular marriage by suffering him to take a benefit under it, conferred at their hands.<sup>2</sup>

The case is simply a good illustration of the old maxim of the canon law: *Frustra ecclesiae auxilium implorat qui ejus contempserit auctoritatem*; or, as English lawyers have it: *Frustra legis auxilium quaerit qui in legem committit*.

Lord Lyndhurst, having made it plain that he considered that the contract *per verba de praesenti* was 'the knot or bond of matrimony,' by which, under the common law, the man and woman are made 'very husband and wife,' passed on to consider the further question, By the law of England, previous to the Marriage Act of 1753, did such a marriage produce the legal effects that follow from a marriage regularly solemnized? This he answered in the negative, going, one by one, through a number of the legal effects in question.

He held, then, that such a marriage did not give a right to dower,<sup>3</sup> nor legitimate the issue,<sup>4</sup> nor give the man a right to the wife's goods as her husband,<sup>5</sup> nor the right to administer her goods if she died intestate,<sup>6</sup> and that it did not, without a decree of a court, make a subsequent marriage void.<sup>7</sup> Hence he held that a marriage contracted *per verba de praesenti*, without the intervention of a clergyman, 'did

<sup>1</sup> A clear indication that the reason why administration was withheld from the husband was not that the marriage was invalid.

<sup>2</sup> 10 Cl. and Fin., 717.

<sup>3</sup> Ibid., 845-850.

<sup>4</sup> Ibid. 850-854.

<sup>5</sup> 10 Cl. and Fin., 854, 855.

<sup>6</sup> Ibid. 855, 856.

<sup>7</sup> Ibid. 856.



not confer those rights of property, or the more important right of legitimacy [of issue], consequent on a marriage duly solemnized according to the rites of the Church.<sup>1</sup>

As to the marriages of Jews and of Quakers,<sup>2</sup> they seemed to Lord Lyndhurst to present no difficulty in the case. Of the Jews, Lord Stowell had said that 'the matrimonial law of England for the Jews is their own matrimonial law.'<sup>3</sup> Lord Lyndhurst accepted this. As to the Quakers, he admitted that their case was 'of more difficult solution,' and that their marriages might 'afford materials for popular reasoning'; but he seemed to consider that the legislature, in exempting those marriages from the Marriage Act of 1753, might be taken as having placed them on the same footing as the marriages of Jews, and thereby legalized them, they having until then been invalid under the common law.<sup>4</sup>

Coming, then, to what Lord Lyndhurst described as 'the immediate point for decision,'—namely, whether George Millis was to be held guilty of the crime of bigamy,—he held, on various grounds, unnecessary to specify here, that, although at common law, a marriage contracted *per verba de praesenti* only, was valid, an indictment for bigamy, in a case in which one of the two marriages in question was so contracted would be bad.

But Lord Lyndhurst did not decide the case on grounds of common law only. He considered that the Act of 1818 (28 Geo. III. c. 81), mentioned in my former paper,<sup>5</sup> was in itself decisive against the prosecution. That Act extended to Ireland certain provisions of Lord Hardwicke's English Marriage Act of 1753 (26 Geo. II. c. 33). It enacted that, in no case, should a proceeding be had in any Ecclesiastical

<sup>1</sup> 10 Cl. and Fin., 858.

<sup>2</sup> See I. E. RECORD, May, 1912, pp. 459, 460, 466; and *ante*, pp. 587, 588.

<sup>3</sup> 10 Cl. and Fin., 864.

<sup>4</sup> Ibid. 864-866.

<sup>5</sup> See I. E. RECORD, May, 1912, pp. 465, 467.

Court in Ireland in order to compel the celebration of any marriage *in facie ecclesiae* by reason of any contract of matrimony, whether *per verba de praesenti* or *per verba de futuro*.

Lord Lyndhurst said :—

The effect of this statute has been to change entirely the character of a contract *per verba de praesenti*. It is no longer indissoluble ; solemnization cannot be enforced : it has no longer the effect of avoiding<sup>1</sup> a subsequent marriage solemnized *in facie ecclesiae* ; but such marriage is from the time of its celebration valid and binding, and accompanied with all the civil consequences of a regular and perfect marriage.<sup>2</sup>

And he then went on to point out that in a case of bigamy, it is the second marriage that constitutes the offence : that marriage is a mere nullity. But, under the Act of 1818, in case of a marriage contracted in Ireland *per verba de praesenti* only, followed by a marriage duly solemnized, it is not the first, but the second, marriage that is good. And how, asked Lord Lyndhurst, can such a marriage, which the law sanctions, and the obligations of which it enforces, constitute the crime of bigamy?<sup>3</sup>

### § 5. *The Result.*

Whilst, then, three of the Lords,—Lords Brougham, Campbell, and Denman,—held that the marriage of Millis and Hester Graham was capable of sustaining an indictment for bigamy, on the other hand, three, the Lord Chancellor, Lords Abinger and Cottenham, held that it was not.

Thus, when Lord Brougham's motion, 'that the judgment of the Irish Court of Queen's Bench be reversed,' was put, the voting was equal, and thereupon, 'according to the ancient rule in the law, *Semper praesumitur pro negante*, it was determined in the negative, and the judgment of the Court below was affirmed.'<sup>4</sup>

<sup>1</sup> The lawyers' technical expression for 'making void.'

<sup>2</sup> 10 Cl. and Fin., 871, 872.

<sup>3</sup> Ibid. 872.

<sup>4</sup> *Minutes of Proceedings of the House of Lords* (29th March, 1844).

The decision of the House of Lords in the *Millis* case seems to be very generally regarded as a decision that, under the common law, the law of marriage in England was not the general canon law of the Church, but an independent ecclesiastical law, differing from the canon law on sundry points, and differing from that law especially in this, that it required the presence of a clergyman as essential to a valid marriage.<sup>1</sup> But is it not plain from the analysis above given of Lord Lyndhurst's judgment, that no such point was decided by the Lords, as indeed no such point was before them for decision?

The only way of accounting for what would seem to be a widespread misconception as to the real import of the decision of the Lords, is to suppose that the line of distinction so clearly drawn by Lord Lyndhurst in his judgment has somehow or other been generally overlooked. Whether before the Marriage Act of 1753, a marriage contracted without the presence of a clergyman was recognized by English law as valid, is one question. Whether that valid marriage was furthermore recognized in English law as bringing with it all those temporal consequences that flow from a regularly solemnized marriage, is a totally different question.

Lord Lyndhurst, whilst answering the second of those questions in the negative, answers the first in the affirmative. In so answering it, he sets forth in detail the various properties and consequences of the marriage bond produced by such a contract.<sup>2</sup>

But Lord Lyndhurst's important exposition of all this, carefully considered as it unmistakably was, cannot be regarded as judicially affirming the various statements so lucidly put forward in it. From the way in which,

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<sup>1</sup> 'In the year [1844], in our highest court of law, three learned lords maintained the thesis that by the ecclesiastical and the common law of England the presence of an ordained clergyman was from the remotest period onward *essential to the formation of a valid marriage*. An accident [*sic*] gave their opinion the victory over that of three other equally learned lords, and every English court may now-a-days be bound to adopt the doctrine that thus prevailed.'—Pollock and Maitland, *History of English Law*, vol. ii. p. 370.

<sup>2</sup> See *ante*, p. 596.



later on in his judgment, he spoke of the change made in the law, as regards Ireland, by the Act of 1818,—corresponding in this to the English Marriage Act of 1753,—it would seem indeed that, in deciding the case judicially, he decided it on the lines rather of the statute law.<sup>1</sup>

But although Lord Lyndhurst's detailed statement of the validity of such marriages at the common law cannot be taken as judicially deciding the matter, that statement makes it plain that he not only gave no countenance to the theory that the ecclesiastical law of England was a 'domestic' code, differing from the canon law of Rome, and enacted mainly in English Provincial Synods as a body of law adapted to the wants and in harmony with the wishes of the English people,<sup>2</sup> but that, so far from giving countenance to any such theory, he, on the contrary, expressed himself in a way entirely at variance with it.<sup>3</sup>

The result, then, of our examination of the case would seem to be,—

1. That it was decided,—but only as the result of an equality of votes,—that a contract *per verba de praesenti*, without the presence of an ordained clergyman, did not constitute such a marriage as would sustain an indictment for bigamy ;

2. That, of the six Lords who decided the case, four,—the Lord Chancellor, Lords Brougham, Campbell, and Denman,—being the majority of the Court, were of opinion—apart from statute law,—that such a contract constituted a valid marriage ;<sup>4</sup>

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<sup>1</sup> Even apart from this, it would seem that Lord Lyndhurst's affirmation of the validity, at common law, of the marriage contract made *per verba de praesenti* only, should not be taken as judicial. What he had to decide was, whether such a marriage contract carried with it certain temporal consequences. He held that it did not, and as this was equally consistent with the validity, and with the invalidity, of the marriage as a marriage, his observation as to the validity of the marriage would probably be regarded as extrajudicial.

<sup>2</sup> See *ante*, p. 575.

<sup>3</sup> See *ante*, pp. 595-600.

<sup>4</sup> That is to say, a marriage valid as a marriage, or, in other words, valid in the sense of its being indissoluble, and so forth (see Lord Lyndhurst's statement, *ante*, p. 596), as distinct from its being a marriage from which would flow all those temporal consequences or effects that flow from a duly solemnized marriage.

3. That it was not, however, judicially decided that a marriage so constituted was valid,—Lord Lyndhurst being of opinion that in the case before the House there was question, not of the common law, but of the statute law as enacted in the Act (58 Geo. III. c. 81) of 1818, which he regarded as having entirely changed the law in respect of contracts *per verba de praesenti* ;

4. That it was not, on the other hand, decided, as seems to be very commonly supposed, that a contract *per verba de praesenti* did not constitute a marriage valid at common law,—four of the Lords, as we have seen, holding that in fact it did constitute such a marriage ;

5. That, consequently, the decision in the Millis case gives no support to the assertion that there was a divergence between the common law of England in Catholic times, and the canon law of the Church, an assertion upon which the ‘continuity’ theory of English Protestantism so largely depends.

The practical effect of the failure of the appeal from the decision of the Irish court to the House of Lords was, as we have seen, to confirm that decision. This, in view of the number of marriages celebrated in Ireland by Presbyterian ministers in circumstances identical with those of the marriage of Millis and Hester Graham, gave rise to difficulties that could be removed only by a change in the law.

The law was accordingly changed by an Act of 1844, the year in which the Millis case was decided. That Act (7 and 8 Vic. c. 81) legalized all such marriages that might thenceforward be celebrated ; and, in conjunction with two previous Acts, passed, respectively, in 1842 and 1843 (5 and 6 Vic. c. 113 ; 6 and 7 Vic. c. 39), it also gave full legal effect to all such marriages which had been celebrated down to the date of its enactment.

✠ W. J. W.

## A NOVELIST'S SERMONS—IV

## CAUSE AND CURE

**I**N the second of these papers I took occasion to speak of the fact that Catholics, whether calling themselves, or called by their neighbours, by this or that political or party name, must always have in themselves something deeper and more permanent than their adhesion to any political party. For the interests of parties are shifting and evanescent, while the principles of the Church are stable and unchanging. It may and does happen that some matter of importance ranges almost the whole Catholic vote in a country for the moment on the side of a Liberal Government: and some other question presently arises, even in the same country, which ranges all the Catholics in it on the opposite side—the Conservative Government, or opposition, happening to favour what the Catholics desire, or the Liberal Cabinet, or opposition, chancing to be bent on some measure repugnant to what Catholic principles demand. It can hardly ever be said with safety, at any given moment, that the whole Catholic world is Liberal in politics, or Conservative.

This sort of apparent uncertainty is not an element of weakness, but the reverse, even politically speaking: for it is not a secret that more deference is paid by party rulers to bodies of voters whose vote has to be conciliated than to groups whose adhesion can be securely counted upon without any conciliation at all. Catholics, therefore, act wisely when they teach party rulers to understand that their support can only be gained by conduct in consonance with the unchanging principles and permanent interests of their unchanging Church. Politicians may resent the rigidity of this Catholic attitude—resent it because it may be hampering for the moment to themselves—but even politicians are apt to recognize conscience in others, though not invariably exclusively dominated by it themselves; and the more



consistent Catholics are the more they are respected. Strict Catholics may hear themselves accused of bigotry, intolerance, or stiffneckedness, but lax Catholics are not deeply venerated even by Protestants or unbelievers. The Holy See itself is often reviled for its stiffness and unyielding immovability : but in its stiffness lies its strength. As a temporal sovereignty it does not for the moment exist, whatever may happen next : yet it is as much as ever a World-Power ; and its significance as such comes from the well-appreciated fact of its solidity and moral force. Were it to study chiefly pliancy and adaptability to the times, hurriedly grabbing at new methods and novel catchwords, hastily admitting every freshly-discovered social, political, or ethical nostrum, its moral force would no longer strike the times, of which it would become the pupil instead of the teacher. ' *Après moi le deluge,*' said Louis XIV., and the modern world is given to call the Holy See antediluvian, as in a sense it is. It was there before all the deluges out of which modern society is blankly trying to pick itself together : and it will be there to the end, after all the further deluges to which modern society may be helplessly drifting. Meanwhile politics and parties are here : and what I would like to say is this—too much cannot be hoped from them, or any of them.

It seems to be admitted almost everywhere that society, that is, the present artificial fabric of society, is sick and sorry. One party ascribes the mischief to the stupidity, greed, selfishness, and obstinacy of its opponents ; and those opponents blame the rashness, imprudence, and ignorance of the experimentalists, whose haste and itching ambition for present applause lead them into devious and thorny paths whose final exit no one can foresee without misgiving. Whether either side really believes that if it could remain always in power the wounds of society would be healed, we cannot tell. But, whatever they may believe, we cannot believe it. The wounds of society lie deeper than that : and they never will be healed by any merely political physicians. We have heard of Symptomatic Treatment, and we are informed that it is not only superficial, but false in

principle, beginning, as it were, at the wrong end : beginning, that is, from the outside. Whereas true healing can be wrought, not by chasing local symptoms about the sick body, but only by finding out the cause of disease and removing it.

To say that all merely political attempts to heal the sickness of society will in the long run prove superficial, a radically vicious course of cure, because amounting to no more than symptomatic treatment, may sound gloomy and pessimistic : nevertheless, I believe it to be the sad, if dismal, truth. 'Are we then to do nothing ? to let everything drift, and make no attempt at relief ?' the political physician may, quite plausibly, demand. The answer is trite and dull : 'Medice cura teipsum.' A sick doctor may, as the phrase goes, save your life. But if the doctor's own disease lies not in his body but in his mind : if all his principle of healing be at fault—then what good will all his diplomas do you ? All the letters after his name will not spell health for you. That is what's the matter. The political physician is making a partial, incomplete, superficial diagnosis all the time.

Certain crude symptoms he may attack—and in attacking them he does bring temporary relief, if his method of attack be not clumsy and ignorant ; but his method may be both, and even the irritating local trouble may be driven to another part and reappear there with greater suffering to the whole body, or forced inward to some vital spot where it works unseen to its fatal climax. Meanwhile he earns applause and gratitude : good doctors know well how popular a quack may be for a time. 'Wait,' they, like Mr. Asquith, say, 'and see.' All this onslaught upon local symptoms will avail nothing to radical cure, till the radical disease is frankly confessed and, if not too late, removed.

God made the world, and all men in it : all they have is His, and all their good comes from Him. All their ill is of their own making ; and yet they cannot mend it by themselves. Only He who created can recreate. Men can make themselves sick, but perfect health can come back only at the word of the one Divine Physician, and by obedience

to that word. The pool is troubled every day, but only when He comes by is the man healed eight-and-thirty years sick of his infirmity. Then no scrambling haste brings back health, but one act of unhalting obedience to one word of omnipotent command: 'Arise, take up thy bed and walk.'

The evils which afflict society are traced by many different observers to many different causes: but the underlying cause of all those causes themselves is one—selfishness, a selfishness deep-rooted and not planted in one soil alone. There is the selfishness of capital, the selfishness of labour, the selfishness of some who cling desperately to vested interests being fiercely torn from them, and the selfishness of others who can see no betterment for themselves except in the dragging down and worsening of the position of such as seem to have already that which they are in hot haste to get. Will any State ever be able to root out selfishness? Can any State's legislation ever change it into brotherly love and sympathy? Legislation can make anything the State chooses criminal: it can punish privilege, and destroy it; it can set a class up, and it can tear a class down; it can drive capital away into another State, and it can also drive labour away into some other State where employment for labour is to be found. It can make inequalities illegal and it can try to make equality obligatory. Can it succeed? Has it ever succeeded anywhere?

Any government that wishes to do so can pit class against class—no government can insist on each class loving the others. The business of the Church is to try, not by sledgehammer legislation, but by teaching what the Founder gave her charge to teach. God alone can do what needs to be done, and the States of the world are in a conspiracy to ignore God, and so cause Him to be ignored. That is what's the matter.

Selfishness is inevitable in men who have ceased to believe in God, whatever altruism may urge or pretend. A man will not yield his own profit, or even his own pleasure, once he believes that he himself is the being of paramount importance. There is no radical cure for selfishness except



the sincere belief and recognition that there is something greater than self : and that belief and recognition the States of the world have for some time been sedulously smothering. Man has never admitted any greater than himself except God : set God aside, and he sees nothing but himself. You may prate of mankind, and the greatest good of the greatest number, but his greatest good, once he disbelieves in God, is the good of 'number one'—for that intensely significant minority he will care more than for all the majorities that ever turned any minister's brain. What is the greatest good of the greatest number to a man discontented with the little share of good he sees himself to have in a world which he believes to be the only world ? The mere reduction of the general bulk of suffering will not make him patient, though the sufferers be made few, so long as he suffers anything himself. Can any State by any legislation make pain and sorrow, poverty, and suffering, and discontent illegal ? Can any legislation breed patience, or set undaunted hope in the hopeless ? Can any State secure ease and comfort to the idle, the incapable, the deficient, the improvident, the foolish ? It may try, and in trying it may deal great injustice to the industrious, the capable, the provident, and the prudent : even so it cannot succeed. There are obstinacies of ineptitude that will always defeat the most grandmotherly legislation. Or States may bluntly ignore such helpless, hopeless minorities : and leave them to the tender mercies of the law of survival of the fittest. Such minorities are helped on sufferance : weak and feeble minorities do not count on a division. God only has patience for cognizance of minorities that are not noisy.

Radical wounds of society come from radical faults in the men of whom society is composed ; and the State is not concerned to heal those faults. At all events the State does not concern herself with healing them, for they come from a deeper root than social inequalities, huge accumulations of wealth and horrible, staring contrasts of squalor and poverty ; they are bred in the swamps of unbelief. They are the rank growth of the cold, wet, and sour lands of low-lying denial of all that is above this present life. Hope

is the only balm for present pain, and of all men must they be most hopeless who have been allowed to grow up believing that Christ is not risen from the dead, and that death is the bitter end of all. Hopelessness of aught beyond this life must lead to greediness while this life lasts, and greed unfed must lead to despair and fury. Why should the hopeless poor be patient? Why should the hopeless rich loosen his clutch upon his wealth? Life is so short: the most outrageous millions can be so guarded as to last a lifetime or two; the most hopeless poverty must make haste to seize what it can, no matter whence, no matter how, else it will be too late, and death come and find it empty-handed still—since death ends all.

God's lessons are the follies of States. His justice is their laughing-stock. His adjustment their fables. Material good is the only good, and material good they promise, break their promises, and invent new ones. The promises of States that persist in ignoring God, and prove their persistence by eliminating altogether when they can—as far as possible when total elimination does not yet seem feasible—the teaching of belief in God, the promises of such States, I say, are all based on the theory that the State has everything to bestow and God nothing, that the only things man can need or desire are the things a government can give: in other words, that this life and its profits are all there is to hope for. Under such teaching majorities must be progressively formidable, for the majority of men will always perceive that there are still *desiderabilia* in other people's possession: the logic of unbelief leads to hungry greed and furious discontent, and so to anarchy, for human law alone can never abolish unbridled wants, nor muzzle the mouth of majorities unsatisfied. Anarchy is only the final consequence of negation of God, and to it the public negation, or ignoring of God, inevitably tends. Should the weakening of government, which seems to exist in many States, become general and pass on to a phase of chaos, those who may rejoice in it, the triumphant anarchists, may justly boast that the Reformation was the first phase; that the intervening condition of things was a mere temporary

compromise, a futile endeavour to fire a train without any consequent explosion—an attempt to set in operation certain potent causes and prevent the causes producing the result involved in them.

From the teaching of the Reformation arrived, in due time, the idea of States without God; and nothing would have seemed more ludicrous to the 'positive' eighteenth century than the dictum that a State without God is an impossible idea. In its old age it declared itself in favour of a State without God, and the anarchy of the French Revolution was the resultant *Enfant terrible*. Since then other States have proclaimed themselves self-existent without God, and the result we have yet to see. Those who believe that a State without God will not long continue to exist as a State at all will not be sanguine as to that result. There is a perverse disposition in mankind to believe that identical causes need not produce identical results, and the fact that causes do not always proceed at a uniform pace, owing to special obstacles, or the dissimilar gradients of roads, encourages them in this perversity. Thus English people, shocked at the consequences of a Godless State overseas, have always refused to believe that any deplorable result would accrue from similar behaviour at home. The English being, as they complacently averred, a believing people, nothing lamentable could happen from merely abstaining from teaching belief in the schools of the nation. It did not seem to occur to those who did believe that their belief was the consequence of their having themselves been taught to believe.

And there really was a mass of habitual, inherited belief and conscience. The fruits of the Reformation were not in England so quick to ripen as they might have been had not the English substitute for the Church clutched wistfully at much of the old Church's teaching, and endeavoured, more or less hopelessly, to retain it. Men were certainly free to believe what they liked, but they ought, in conscience, to go on liking to believe something. It was a later result of freedom to believe what you liked that you might prefer not to believe anything at all. Of course, if you did not,



it seemed illogical to insist on your being taught belief. Still you ought to be good : a bad man or so, here and there, could be no excuse for your being bad too. Society must be respectable : whatever you disliked believing you must, as a member of society, be respectable, or where were we ? National respectability is a foregone English conclusion, like the National Debt—an impregnable security at three per cent. A disreputable England, without gilt-edged securities, would be an idea at which the English mind would reel and stagger. France without God may very likely have lapsed into disreputable courses, but then French people and English are widely different. England is the land of home and large families : respectability is a national asset—like the cotton trade.

That the basis of respectability is morality, and the only permanent security of morality is belief in God, and the only security for a continued national belief in God is the continuance of a national teaching of God—that idea has been lost. Until it is regained, here and elsewhere, I, for one, do not place much hope in the efforts of any party or of any government, at home or abroad, to deal with the radical evils of which society complains.

JOHN AYSCOUGH.

## PROBABILISM AS A SUBSIDIARY GUIDE TO CONDUCT

### THE NEED OF POSSIBILITIES IN ETHICS

WE have seen how in conduct 'right and wrong' is reducible to perceived fitnesses and unfitnesses in things: there is left the difficulty about our obligations under the many circumstances which must occur wherein clear discrimination is beyond our powers. Is the doubt to be always against us? are we always bound unless it is evident that we are free from obligation? In one sense, yes: but the alarm which this answer may at first arouse in timid souls can be allayed by a qualification to be placed on the principle laid down by St. Paul: 'Whatever act does not proceed from faith or conviction is sin' (*ex fide*).<sup>1</sup> This cannot mean from supernatural faith so that all pagan virtues would be vices: it means from a settled assurance of conscience that we are right. Now sometimes we can certainly be right in the use of probabilities, as we may show by stages of development in the exposition.

#### I.

The Roman code embodies much that is sound in principle on the matter of justice; of which we have one example in its principle of what is now known as probabilism but was then left without a name. In the 50th Book of the Digest, under its 17th title, various rules are given to the effect that the court in obscure, doubtful cases should make the minimum exaction and follow the milder course, the course most favourable to liberty. 'Semper in obscuris quod minimum est sequendum Benigniora praeferenda sunt.'<sup>2</sup> 'In re dubia benigniorem interpretationem sequi non minus justius est quam tutius.'<sup>3</sup> These rules are referred severally to the names of Ulpian, Pomponius, Gaius, and Marcellus. It is true that we have to do here with civil tribunals taking

<sup>1</sup> Rom. xiv. 23.

<sup>2</sup> Reg. 56.

<sup>3</sup> Ibid. 192.

cognizance primarily of temporal well-being, not of moral obligation, and dealing with cases under the limits of human jurisprudence. Such a procedure evidently is not coextensive with ethical obligations. Nevertheless both spheres have principles generically in common: and one of these is probabilism. In its legal presumption on the side of liberty, it is important to remember that this is quite other than the system of morality which, at many points, seems to rest on the good of human liberty as if it were of primary value, and to define justice as non-interference with the liberty of the individual beyond the strictest necessity of social order. God in all His essential excellence is not free but necessary: the ultimate moral good cannot be freedom in the scholastic sense of free or determinable at choice.

Next we have the administration of the penitential law by St. Cyprian at Carthage, in the discharge of which he laid down substantially everything that modern probabilists can require. He wanted what fairly seemed to him signs of repentance which he could not conscientiously reject as certainly inadequate, though, on the other hand, in many cases he might fear insufficiency of conversion. Then, he argued, I must not risk refusal of possible rights in my endeavour not to concede what may be, but are not evidently to me, invalid claims. To avoid suspicion of partisan construction upon his words, let us take the Oxford translation of the 59th Letter, nn. 21 and 22, which letter is the more important because it is addressed to Pope Cornelius, with whom, during a great crisis, the writer was acting in concert:—

Oh, that then thou couldst be with us, dearest brother, when these wicked and perverse men return from schism. Thou wouldst see what labour I have to persuade our brethren to patience, that stifling their grief of mind they would consent to receive and restore the wicked. For as they rejoice when such as are bearable and less culpable return, so contrariwise they murmur and resist as often as the incorrigible<sup>1</sup> and froward,

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<sup>1</sup> *Inemendabiles*, not in the absolute sense: some are incorrigible who might correct themselves and ought to do so, but have long failed.



and such as have been contaminated either by adulteries or sacrifices, and who with all this are, moreover, proud, return in such manner to the Church that they corrupt the good dispositions within it. I can scarcely persuade the people: rather I extort it from them that they would allow such to be admitted. But the grief of the brotherhood appears the more reasonable in that some few,<sup>1</sup> who, when the people strove and spoke against it, were yet admitted by my easiness, have proved worse than they were before and have not been able to keep their pledges of repentance because neither was their repentance true wherewith they returned.

In n. 22 the letter continues: 'The Church here is not closed against any, nor the bishop denied to any. Our patience and easiness and kindness are open to all who come. I wish all to return to the Church; I wish all our fellow-workers to be enclosed within the camp of Christ, and the dwelling-place of God the Father.' Then follow words of which the *Provincial Letters* would have made immense capital if the compilers had thought them to be the utterance of Escobar instead of that antiquity to which they appealed; as it was, they ignored the passage though it ought to have come under the observation of such patristic students as they were. 'I forgive everything, I overlook many things through my desire and longing to unite the brotherhood together. Even the sins which are committed against God<sup>2</sup> I do not weigh with the full strictness of religion: I am almost myself a delinquent in remitting more delinquencies than I ought.' These are phrases for the Pascals to fasten upon in their isolation! The equitable judge will find the saving principle of sound probabilism in what follows: 'I welcome with a ready and entire affection *those that return in penance, who confess their sins, making humble and genuine penance.*' The translation is here wrong: 'genuine' does not appear in the text and

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<sup>1</sup> 'Unus atque alius.'

<sup>2</sup> All sin is against God, but three specially were *in Deum*: apostasy, the denial of Himself, and adultery and murder, which violated the body which was His temple. To-day, unfortunately, sin is only violation of the reasonable self and of social claims, not offence of God. There is no sin.

does not suit it : what we read is 'peccatum suum satisfactione humili et simplici confitentes.' On the genuineness of the signs St. Cyprian could judge only as a fallible man, and God required of him no more, as the saint declares in other letters he had to leave the final judgment to heaven, the ultimate court of ratification.

## II.

Since the pre-casuistical days of the Carthaginian Bishop, who found ready to hand and attempted for himself no theory of probabilism in set form, the tribunal of sacramental penance has forced into existence a scientific discussion, while mathematics also, on a different ground, has calculated the value of different probabilities. As regards the latter science, which has little bearing on the former, it finds many problems with which its dealings are of little worth in practical life and must be left aside as of only an abstract character. The mathematically estimated probabilities about next year's weather drawn from statistics of the past would be a slender reed on which to rest for a business man. In a game of pure chance between two persons, such as dicing for money, in which any skill would mean cheating, mathematics pronounces the chances equal without being able to fix any definite time when the game could so cease that for certain the run of luck at that moment would not be in favour of one party over the other. Again, the number of throws in which a dicer ought theoretically to turn up double-sixes might be mathematically assigned, without guaranteeing that he will succeed, or that he will not succeed several times : he may succeed at the first attempt. A favourite topic of discussion is whether so complex an arrangement of letters as is involved in the printing of the ballad 'Chevy Chase'—not to introduce the more appalling instance of the whole *Iliad*—would have just an equal probability of occurring with any other definite sequence such as a person might arrange beforehand, or as does actually result from a chance dealing out of all the necessary letters. The *a priori* improbability against the occurrence

of either of these is immense. The purely abstract principle is that all sequences are equally possible and *a priori* equally probable. At the same time, the number of irrational sequences very far exceeds the number of sequences that are rational throughout; and therefore the highly compound probability of a result of the latter kind is much smaller. Still it is possible; and to bring it into the region of practicability it is suggested that a wicked demon, with an eternity before him, might be set as his penal task to go on trying till he succeeded in printing 'Chevy Chase' by a lucky chance in his millions beyond millions of haphazard ventures. As facts, card-players tell of most unexpected results of order from a fair deal without prearrangement. Leaving to the mathematician questions like the above, the moralist has for the most part to consider questions that do not submit to quantitative terms. He has to use a quite different balance of qualitative values. And that is one reason among others why theories requiring a comparative degree such as most probable, more probable, equally probable, have had to yield in practice to the requirement simply of a really solid probability,<sup>1</sup> which is no slender off-chance, most unlikely to prove correct in the issue. Pascal and others were not content with even the greatest probability to justify liberty of action; but their rigorous opinion was condemned by Alexander VIII. (1690); the other views, with the exception of the slender probability, are left to defend themselves. In face of laxities among individual theologians, his own subjects and others, Father Gonzalez, the General of the Jesuits, considered it his mission from God to insist upon Probabiliorism. His zeal outran his discretion; he much exaggerated his position, made blunders in his proceedings, and though he obtained a declaration of freedom for professors in his order to teach probabiliorism, they had that freedom before it was authoritatively enjoined, and they had used it in several instances coincidentally with the

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<sup>1</sup> Simple Probabilism in name and theory is attached to the Dominican Father Medina as its first clear enunciator, 1577.



freedom of others to teach otherwise, so long as they did not degenerate into sheer laxism of the *tenuiter probabile*.

It is further to be enforced that the non-comparative form of 'solid probabilism,' which leaves out more and most probable, rests not merely on the practical difficulty in making comparisons by degrees. It rests also on its own theoretical grounds, and on the refutation of the adverse systems. The comparativists make the false assumption that the higher the probability the nearer is the approach to truth. But the privilege for the comparative or the superlative degree cannot thus be defended. For the highest probability, if it is only probable and not certain, may prove wrong; while the lowest may prove right in actual result. This fact, however, is not allowed to establish a rule that reliance may be placed on the last as on a solid probability. Solid Probabilism rests on itself: on positive grounds of justification, such as were illustrated at the outset of this paper from the Roman law. They are the 'præsumptiones juris,' or the 'argumenta ex communiter contingentibus.' Possession is nine points of the law: liberty is in possession till it is proved to be dispossessed: the *onus probandi* rests on the side of the obligation; a doubtful law does not bind; it does not bind till it is sufficiently and effectively for the individual promulgated, especially if God is the promulgator who has amplest means at His disposal; who knows and respects the limitations of human knowledge. The above are the foundations of various forms of a maxim used by the honest and abused by the dishonest: 'Favores sunt ampliandi: odiosa sunt restringenda.' We honour God in thinking that He does not condemn probabilism in creatures of human infirmity; and we honour Him also in not always taking advantage of His concessions. Human law, as a rule, cannot afford to accept the plea of ignorance or doubt as an excuse: the Divine Judge is not thus restricted to the letter of His law, which as natural is promulgated by the light of reason, and as supernatural by revelation. Both promulgations may fail to reach an individual without fault on his part.

## III.

After the general statement of the theory some of its limitations are to be disclosed. Pains must be taken proportionate with the matter to get beyond probabilities into certitudes. It is not excusable in a question of any concern to neglect even laborious means of information, still less purposely to avoid them. Inferior judgments must have recourse to those better trained, and those with smaller knowledge of facts must consult those whose store is ampler. Next comes the important principle that certain matters lie outside the range of probabilism. Wherever a definite result has to be effected, such that if the probability turns out not to be the true solution then this result is not gained, in this case, the securest way, if reasonably possible, becomes obligatory. Thus, if an expensive material is certainly an antidote to a poison, and a less expensive material only may be with a solid amount of likelihood, just because the latter may fail so that death will ensue it may not be used. So in erecting a public stand at a royal procession it is not enough to set up a hopeful construction not thoroughly secure. Even if fear of damages did not deter them, railway companies would not be allowed to run their trains on less than certain calculations, such that any accident is a departure from calculated arrangements. Thus there are several instances in which probabilism is not legitimately applicable.

The cases for application are roughly described as questions between merely the licit and the illicit, at which discrimination the matter stops. The clearest examples are those of simply positive law as distinguished from the natural: '*mala quia vetita*,' not '*vetita quia mala*.' If abstention from all food is prescribed from the midnight preceding Holy Communion, and a clock is only a probable guide because of its imperfect working, it may be followed in defect of any better instrument: then even if it has told wrong no harm is done. So if a penitent has only a solid probability about one serious sin that it has been confessed, the benefit may be taken of the doubt, and if the calculation is wrong again no harm is done. Moreover, even

in the natural law cases are not wanting, though they are much fewer, partly because in the large field of justice to others ill consequences easily follow the failures in probabilities. An ill-instructed man thinks it probable that he may tell a harmless lie to escape an inconvenience to himself: he has no counsellor to consult: he may act on his own judgment, though in reality it is erroneous. The harm here done is material, but not formal and imputable.

The above simple instances suffice to give a general idea of the distinction which they illustrate; it requires practice in solving concrete problems to qualify a judge in dealing with the more complex cases: while in many of these the circumstances grow so perplexing that we must expect different minds to arrive at different solutions.

One difficulty occurs which deserves a moment's attention. If we have only a good probability on our side that we have paid a debt to our neighbour, and he on his side can establish a good probability that we have not, we scruple to use our probability there because we may be doing an injustice to one who will feel heavily the disappointment of his expectations in gathering up his dues. But if it is merely a question of licit or illicit in the eyes of God then we are freer. Is it that we respect God's right the less? No; but God cannot be inconvenienced as a man may be who is in need of all the money he can fairly make. Again, God has absolutely the power to bring home to us the certainty of any obligation which we may have contracted towards Him, while a neighbour has no such power. We do not, therefore, offend God if we treat Him somewhat differently in consideration of His position. He ultimately has determined the limits of our power to know; He has made the restriction, as we may reverently suppose, not without recognizing the principle enunciated by St. Thomas: '*Nemo ligatur per praeceptum nisi mediante scientia illius praecepti.*'<sup>1</sup> God is not offended if a mother omits the otherwise obligatory Mass on Sunday to pay needful attention to a sick child: the child has need, God has none, in the case considered.

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<sup>1</sup> *De Verit.*, q. 17, a. 3.



## IV.

The last remark opens out the way for some brief summarizing of what we are told outside natural ethics about God's revelation of His own attitude towards human ignorances. When among the Jews atoning sacrifices were offered for 'ignorances' many of these concerned ceremonial laws, the unwitting violations of which brought with them just the ceremonial disqualifications. Accidentally to touch a corpse was a contact which had to be followed by a legal purification. When in Psalm xxiv. 7, we read the Vulgate rendering from the Septuagint, 'ignorantias (ἀγνοίας) meae ne memineris,' a polyglot Bible shows us that it is a departure from our Hebrew text which is followed by other versions; in German *uebertretung*, in French *transgression*, and in Anglican *transgression*. Still the Vulgate gives a right doctrine in connecting sin with ignorance, not to the full extent of the Socratic view that no man knowingly does wrong, for formal sin is essentially against knowledge, but to the extent that all sin involves or seeks after darkness and disorder, whereas the fuller light, that of the beatific vision, makes sin impossible. The writer of the Epistle to the Hebrews alludes to the connexion when he describes men as those 'who are ignorant and err.'

The matter is still more evident in what Christ said of the Jews who refused Him and ultimately compassed His death. In one sort 'they knew not what they did,' and in another sort they were not simply ignorant: 'Ye shall seek me and die in your sins';<sup>1</sup> 'If I had not come, and spoken to them, they would not have been guilty of sin: but now they have no cloak for their sin,'<sup>2</sup> which can cover it wholly. 'If I had not done among them works which no one else had done, they would not have been guilty of sin.'<sup>3</sup> They were gradually extinguishing the light that was put before their eyes: 'Yet a little while and the light is with you. Walk while you have the light lest darkness should come upon you.'<sup>4</sup> In full agreement with his master St. Paul speaks: 'You have put to death the author of life,

<sup>1</sup> John viii. 21.<sup>2</sup> John xv. 22, 23.<sup>3</sup> John xv. 24.<sup>4</sup> John xii. 35.

whom God raised from the dead.' 'I know, brethren, that you did it in ignorance, as did also your leaders.'<sup>1</sup> Similarly, St. Paul: 'Had the princes of this world known, they would not have crucified the Lord of glory.'<sup>2</sup> And in his own case the Apostle, while calling himself 'least of the apostles, unworthy of the name' because he had persecuted Christ,<sup>3</sup> yet claims some cover of ignorance: 'I obtained mercy because I did it ignorantly in unbelief.'<sup>4</sup> The same writer speaks of pre-Christian paganism as belonging to 'times of ignorance' at which God 'winked.'<sup>5</sup> In truth it is impossible to draw the line between the responsible and the irresponsible offenders in these days of long-established Christianity, when so many minds are un-Christian or anti-Christian, and claim to be so on the strength of their knowledge in an age of high education. Certainly all is not to be put down to open, malicious defiance of the clearly perceived light, nor is all to be put down to sheer ignorance. The truth is somewhere midway. At times there is an inclination to assert a desperate degree of ignorance as one writer has lately asserted a desperate degree of insanity:—

It is impossible to draw a theoretical line between insanity and sanity, which means that there is no such thing theoretically as real responsibility. Practically we have a kind of standard of responsibility in order to protect society against anyone whose actions shew a tendency to be antisocial. Thus we put dangerous lunatics in asylums and leave the harmless at large in numbers untellable.<sup>6</sup>

Only the Judge of the living and the dead knows with any accuracy what are the sins against light abused directly and indirectly, proximately and remotely. But we in our estimate of a fixed certainty of conscience for the guidance of conduct, so far as we personally are concerned, can see how our certitude must stand related to the want of it, and how we can rightly use our probabilities. That has been the one main point of the foregoing discussion.

JOHN RICKABY.

<sup>1</sup> Acts iii. 15, 17; cf. xiii. 27.

<sup>2</sup> 1 Cor. ii. 8.

<sup>3</sup> 1 Cor. xv. 9; Eph. iii. 8.

<sup>4</sup> 1 Tim. i. 13.

<sup>5</sup> Acts xvii. 30.

<sup>6</sup> *Evidence for the Supernatural*, p. 185, by Dr. Tuckett.

## THE LITTLE WHITE FLOWER

LA PETITE FLEUR BLANCHE  
 SŒUR THÉRÈSE DE L'ENFANT JÉSUS ET DE LA  
 SAINTE FACE, RELIGIEUSE CARMÉLITE,  
 MORTE EN ODEUR DE SAINTETÉ AU CARMEL DE LISIEUX  
 LE 30 SEPTEMBRE 1897, À L'ÂGE DE 24 ANS.

## an bláit beag bán.

Builió liom an bláit beag bán,  
 Fáfar ór íriol ón lár;  
 Sgairtear rgeim air ón Rí mán.  
 Bíonn na bánta geal dá ghrá.

Ní bláit bhuíoch atáim a maó  
 Ná maínear níor ría ná tnaé;  
 Déit ainneoin doibhinn éuill tára.  
 Teiríara íora an bláit beag bán.

Geal liom gnúir an bláit big bán,  
 Feaiaó ghráta uirri do b' áin;  
 Faollió léite an Ró-Rí mán  
 Lion Opo Énuic Cairméil dá cail.

Deascar buaio ar iat geal gáil,  
 Fial ir feartaó fóir a élánn;  
 Teapc tír pug maíu beiric beir bárr  
 Ar Siubán o'Áic 'r an bláit bán.

## FLOSCULUS CANDIDUS.

'AN BLÁTH BEAG BÁN.' LATINE REDDITUM.

Candidus atque mihi parvus flos usque renidet  
 Seclusus crescens, caespit et ex humili.  
 Magnificus spargit splendorem Rex super illum.  
 Illius aspectu laetus et omnis ager.



Sed nunc non fragilis flos est mihi commemorandus  
 Cui non longa dies, vita modo brevis est ;  
 Laudibus at meritis extollam rite Theresam  
 Floribus insignem—Jesus amavit eam.  
 Flosculus ille mihi quam candidus usque videtur,  
 Praeditus est tanta laetitia angelica.  
 Omnipotens regum Se Rex delectat in illa,  
 Carmelo monti fama perennis inest.  
 Gallia—vix dubium est—omnes terras superavit,  
 Plena etiam donis et generosa manet :  
 Nam genitae sunt ambae ex illa nomine dignae  
 Joanna ense valens, parva Theresa pia.

*Τὸ ἄνθος μικρὸν καὶ λευκόν.*

‘AN BLÁTH BEAG BÁN.’ GRAECE REDDITUM.

Ἀνδάνει ἄνθος ἐμοῦ γε νόῳ μάλα μικρὸν ἐν ἄλσει,  
 Ὡς νιφετὸς λευκόν, βλάστανον ἐκ δαπέδου,  
 Χάρμα δ’ ἔθηκε Θεὸς καλὸν ὃς βασιλεύτατος ἔστιν,  
 Ἀγλαΐα δ’ αὐτοῦ πᾶν ἐγέλασσε πέδον.  
 Οὐδὲ περὶ βλάστου νῦν λεκτέον ὄνπερ ἂν εἴποις  
 Ἄνθος ἐφημέριον, ρεῖα μαραινόμενον ;  
 Ἀλλὰ κορὴν ἀγίαν αἰνῶ κάλλιστα βιοῦσαν,  
 Τοῦνομα Θηρήσαν, Χριστὸς ὅλως ἐφίλει.  
 Καὶ μὴν λαμπρὸν ἐμοὶ μάλα φαίνεται ἄνθος ἐκείνης,  
 Καὶ θειῶν χαριτῶν πλήθος ἔχον μεγαλῶν ;  
 Ἡ κραδίᾳ φίλον ἐστὶ Θεοῦ πάνυ ἱφί ἄνακτος,  
 Αὐτῆς καὶ Κάρμηλ δόξαν ἔχει καθαράν.  
 Κρείσσων τίς χώρα Γαλατῶν ποτε φαίνεται εἶναι  
 Ἀνδρῶν ἡδὲ κορῶν ἔργμασιν εἴτε λόγοις ;  
 Μητέρος οὐδ’ ἐτέρας οὕτω καλὰ τέκνα ἐγένοντο,  
 Ὡς Ἰωάννα ἐφάνη, ἡδὲ Θερησίδιον.

## THE LITTLE WHITE FLOWER.

An attempt to render in English my Irish poem 'An Bláth Beag Bán,' preserving, as far possible, the laws of Irish syllabic verse.

Sweet sight a wee white flower,  
Freshly found springing from sod;  
Snow-like in secret bower,  
Gracious gift of glorious God.

Of no frail flower I speak,  
Which one week doth see surcease;  
But of maiden mild and meek  
Teres(a) of the Prince of Peace.

Fair thy face, O wee flower,  
Dear dower of grace thy gift;  
Pleasing the Prince of power  
'Tis Carmel's hour hymns to lift.

Not easy to beat fair France,  
Though in trance she seem to sleep:  
Land that bore with love and lance,  
Glorious Jeanne, Teresa sweet.<sup>1</sup>

THOMAS P. O'NOLAN.

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<sup>1</sup> 'Sweet' and 'sleep' make perfect Gaelic rhyme.

# Notes and Queries

## THEOLOGY

### RECONCILIATION OF FREEMASONS AND OTHER MEMBERS OF CONDEMNED SOCIETIES

REV. DEAR SIR,—Will you kindly give, in your valuable review, some practical advice for pastors and confessors in dealing with Freemasons and members of other condemned societies who wish to become reconciled to the Church, but in such a way as to safeguard their business interests and prevent the loss of insurance to their families. In other words, what is the minimum obligation required of such persons :

1. When in perfect health?
2. When dangerously ill?

I remain,

Yours sincerely in Christ,

SACERDOS.

The Constitution *Apostolicae Sedis* imposes an excommunication simply reserved to the Holy See on :—

Nomen dantes sectae massonicae aut carbonariae, aut aliis eiusdem generis sectis, quae contra Ecclesiam vel legitimam potestatem seu palam seu clandestine machinantur, necnon iisdem sectis favorem qualemcumque praestantes, earumve occultos coryphaeos ac duces non denuntiantes, donec non denuntiaverint.

Three classes of persons incur this *ipso facto* excommunication : (1) members of the Freemason and similar societies which plot against the Church or legitimate authority ; (2) those who show favour to such societies ; and (3) those who do not denounce the hidden leaders of these societies. The excommunication is simply reserved to the Holy See, so that faculties for absolution must be obtained except in those circumstances in which the ecclesiastical law otherwise arranges. These exceptional circumstances are, in the first place, the case of those who are *in*



*articulo mortis*, when all reservation ceases; and in the second place the case of urgent necessity, provided for by the decree of the S. Inquisition published in 1886, when any approved confessor can give absolution with the obligation of having recourse within a month to the Holy See under pain of reincidence into the same excommunication.

When the Holy See specially grants faculties of absolution it usually imposes obligations of which the following are the principal: (1) the penitent must cease to have any connexion with the society; (2) the penitent must hand over to the confessor, who will transmit them to the Ordinary, any books, manuscripts or insignia relating to the society; (3) the penitent must denounce to the Ordinary the secret leaders of the society. These obligations are found in rescripts granting special faculties of absolution, and serve as models of the rules which confessors ought to adopt when they absolve Freemasons who are *in articulo mortis*, or who have urgent need of absolution. A few words on each of these obligations will help towards a solution of the difficulties which beset confessors in the discharge of the duties imposed on them by their office.

(1) The penitent must cease to have any connexion with the society. In ordinary circumstances he ought to send his resignation to the society.<sup>1</sup> This, however, is not in all cases obligatory, since the Holy Office, questioned on this matter, replied on August 17, 1898: 'Saltem coram confessario [sectam] ejurent, seu detestentur, reparato sandalo eo meliori modo quo fieri potest.'<sup>2</sup> In difficult cases it is, accordingly, sufficient for the penitent to abjure the society in the presence of the confessor, and to repair the scandal in the best way possible. Nor is it absolutely necessary that this abjuration be made in the presence of witnesses or published in the papers. These are suitable ways of repairing the scandal, but they are not the only means of doing so. Indeed, the penitent's subsequent mode of life is often the best reparation that can be made.

As appears from what we have said, it is not always

<sup>1</sup> Cf. Lehmkühl, ii. n. 1226; Genicot, ii. n. 597.

<sup>2</sup> Cf. Genicot, l.c.

necessary that the penitent should cease to be a nominal member of the society. If he would suffer serious loss or inconvenience he need not be obliged to cut off his name, but he may not hold any active communication which would denote approval of the society. On the 7th of March, 1883, in reply to a question of the Bishop of St. Hyacinth, Canada, the Holy Office made this clear in connexion with secret societies :—

An admitti possint ad Sacramentorum participationem illi, qui eum in finem tantum societatibus secretis nomen dederunt, ut damna temporalia evitarent, revera autem intendunt remanere catholici? R. Juxta exposita catholicos, de quibus agitur, admitti posse ad Sacramenta, praevia absolutione a censuris, quatenus opus sit, pro qua dantur Episcopo opportuna facultates dummodo : 1. re ipsa sese omnino separaverint a societatibus praedictis ; 2. promittant nunquam amplius fore ut sese immisceant alicui actui societatum ipsarum tum secreto tum publico, et praesertim nunquam amplius se soluturos requisitam contributionem ; 3. removeatur scandalum eo meliori modo quo fieri potest ; 4. animo sint dispositi ad suum nomen revocandum, si et quando id facere absque gravi damno poterunt.<sup>1</sup>

This reply directly refers to secret societies, and indirectly refers to all condemned and dangerous societies. In regard to the Masonic Society a practical difficulty concerns the danger of scandal: on account of this difficulty it is only rarely that a penitent can be allowed to remain a nominal member.

The further question is discussed whether it would be lawful for a person not only to remain a nominal member but also to contribute towards the funds of the society, when the lapse of the subscription would mean the loss of a large amount of insurance money or subsidies. The peculiar difficulty of this case is that by the lapse of the subscription the society would benefit perhaps even more than it would by the payment of the subscription, since it would not be compelled to pay the subsidies in

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<sup>1</sup> *Acta Sanctae Sedis*, xxvii. 701.

question. In connexion with the 'Odd Fellows,' the 'Sons of Temperance,' and the 'Knights of Pythias'—three American societies which were condemned as secret societies by the Holy Office on August 20, 1894, and which Putzer declares to come under the excommunication of the *Apostolicae Sedis*<sup>1</sup>—this very difficulty was raised :—

Cum in eis a sociis, soluta statis temporibus modica taxa, jus ad magnum subsidium in casu infirmitatis vel mortis acquiratur, aut si de debito societati solvendo agitur, solutio, eadem sub conditione, notabili commodo fruatur; nuncio vero hisce societatibus misso et taxa amplius non soluta, hoc subsidium et commodum membro pereat cum magno lucro societatum; quaesitum est, an, remota alia earundem sectarum participatione, ad haec incommoda vitanda saltem licitum sit, nomen proprium in sociorum catalogis retinere, necnon in praefatae taxae vel aeris alieni solutione stato tempore perseverare? S. C. S. Off., 19th Jan., 1896, Emo. Card. Satolli, Prodelegato Aplo respondit: *Generatim loquendo non licere et ad mentem.* Mens est, quod hoc tolerari possit sequentibus conditionibus et adjunctis simul in casu concurrentibus, scil.—1. Si *bona fide* sectae primitus nomen dederint, antequam sibi innotuisset societatem esse damnatam; 2. si absit *scandalum* vel opportuna removeatur declaratione, id a se fieri, ne jus ad emolumenta vel beneficium temporis in aere alieno solvendo amittat, a quavis interim sectae communione et *quovis interventu etiam materiali*, ut praemittitur, abstinendo; 3. Si *grave* damnum sibi aut familiae in renunciatione obveniat; 4. tandem ut non adsit vel homini illi vel familiae ejus *periculum perversionis* ex parte sectariorum spectato praecipue casu vel infirmitatis vel mortis, neve similiter adsit periculum funeris peragendi, a ritibus catholicis alieni.<sup>2</sup>

By this reply of the Holy Office, people who *bona fide* joined the particular societies about which the question was asked were allowed to remain nominal members, and to contribute to the funds of the societies if they gave no scandal by doing so, or removed the scandal by an opportune declaration that they so acted simply for the purpose of retaining their right to the subsidies; if they abstained

<sup>1</sup> Putzer, *Commentarium in Facultates Apostolicas*, p. 235.

<sup>2</sup> *Acta Sanctae Sedis*, xxvii. 699.



from all other communication with the society; if they or their families would suffer grave loss by acting otherwise; and if they or their families were not in danger of perversion, especially in times of death or misfortune. Can this same privilege be allowed to Freemasons who were *bona fide* when they joined the society? We believe that it can not, for the simple reason that contribution to the funds of the society cannot be made without scandal, which would not be removed by any declaration that the contribution was made for the sole purpose of gaining the benefit of subsidies. A society like that of the Freemasons, with its sinister reputation, cannot be placed on a parity with societies such as the 'Odd Fellows,' which are of comparatively recent growth and insignificant malice.

Is it ever lawful for a person not only to allow his name to remain on the roll of membership, but also to attend the meetings in order to avert suspicion of desertion from the society? In a particular case the Holy Office, July 5, 1837, replied: '*Juxta exposita, non licere.*'<sup>1</sup> So also the reply of the Holy Office, January 19, 1896, already quoted, declared: '*a . . . quovis interventu etiam materiali, ut prae-mittitur, abstinendo.*' From replies of this kind many theologians conclude that it is never lawful for a person to attend as a member the meetings of the society. At the same time, D'Annibale<sup>2</sup> and Genicot<sup>3</sup> maintain that it is lawful to attend the meetings, if this be necessary to ward off death or some very great evil, if there be no danger of spiritual perversion, and if no benefit arises to the society from the attendance. Genicot points out that the decision of 1896 speaks merely of grave financial loss arising from renunciation of the society, while he is speaking of loss of life or some other very great evil which, in the estimation of men, is equivalent to death.

2. In granting faculties to absolve from the excommunication of the *Apostolicae Sedis*, the Holy See insists that all books, manuscripts and regalia relating to the

<sup>1</sup> Genicot, l.c.

<sup>2</sup> D'Annibale, *In Const. Apostolicae Sedis*, p. 80.

<sup>3</sup> Genicot, l.c.

society be transferred to the confessor for transmission to the Ordinary. It adds, however, that, if just and grave reasons demand it, the books are to be burned rather than sent to the Ordinary. Hence, if the penitent would incur any serious risk on account of the transmission of the books to the Ordinary, it would be sufficient to have them destroyed. We may also mention that the Constitution *Officiorum et Munerum* of Leo XIII. prohibits books which defend forbidden societies: 'Prohibentur libri . . . qui de sectis massonicis, vel aliis eiusdem generis societatibus agunt, easque utiles et non perniciosas Ecclesiae et civili societati esse contendunt.' Accordingly, there is an obligation not to read or retain such books without permission.

3. The third obligation imposed by the Holy See is that the penitent denounce to the Ordinary the secret leaders of the society. No special formalities need be observed in making this denunciation. Formerly there was an obligation to denounce all members of the society, but nowadays there remains merely the obligation of denouncing the secret leaders. The denunciation must be made within a month, and can be made through the confessor. This obligation binds not merely the penitent who has been a member of the society, but also all who have certain knowledge of the secret leaders and who have not obtained their information as a *secretum commissum*. If the excommunication has been incurred, its reservation ceases when the denunciation is made, and probably the excommunication itself ceases also, since the phrase 'donec non denuntiaverint' seems to denote a condition the fulfilment of which puts an end to the punishment. If the denunciation cannot be made without serious loss or inconvenience it is not obligatory.<sup>1</sup>

A practical question now arises: What is to be said of a penitent who *bona fide* has been a member of a condemned society, and who seeks instruction as to his duties? He ought, of course, to be warned of his obligations to desert

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<sup>1</sup> Cf. Ballerini-Palmieri, vii. n. 303; Bucceroni, *Commentarii*, p. 136; Lehmkuhl, ii. n. 1227.

the society, to deliver up the books of the society, and to denounce the secret leaders of the society, unless the confessor prudently believes that the penitent might be merely made a formal instead of a material sinner, in which case, if scandal and danger of temptation be removed, it is advisable to observe a discreet silence. Usually, however, it would be impossible to avoid scandal if the penitent were to continue to participate publicly in the functions of the society and at the same time to frequent the sacraments, so that this rule holds in practice only for secondary obligations, such as that of denouncing the secret leaders of the society.

If a penitent now, for the first time, knows of his obligation to sever his connexion with the society, and refuses to obey, can an ordinary confessor give him absolution if he changes his mind? If he has *bona fide* been a member of the society, refuses to abjure it on learning all about his obligation to do so, and subsequently repents of his refusal, does the confessor need special faculties to absolve him? The special faculties are needed if the excommunication has been incurred. At first sight it would seem as if he incurred the excommunication by his refusal to leave the society, since he thereby became a culpable member. It is probable, however, that the excommunication is not incurred till the penitent performs some new act of communication with the society; and mere refusal to leave the society is not of this nature. Something further, such as renewal of subscription or attendance at the meetings of the society, is required for such communication. Hence it is safe in practice to say that an ordinary confessor can absolve the penitent if he repents of his refusal before he performs any such new act of communication.<sup>1</sup>

Between a dying penitent and a penitent in full health one important difference has reference to future relations with the society. In the former case the confessor can be content with a general promise to have nothing to do in the future with the society, while in the latter case a more definite and detailed promise of holding no further communications with the society should be exacted. Another

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<sup>1</sup> Lehmkuhl, ii. n. 1226.



difference is that in the case of a dying person no obligation of having recourse to Rome if he recover need be imposed, because that obligation holds only when there is question of absolving from a censure specially reserved to the Holy See. In the case of a penitent in full health, who is absolved from the excommunication in an urgent case in virtue of the powers granted by the decree of 1886, it is necessary to impose the obligation, *sub poena reincidentiae*, of having recourse to Rome within a month. Instead of recourse to Rome it is sufficient to get a new absolution from a person having special faculties, or to have recourse to a Bishop or Vicar-General, who has general faculties of absolving from the excommunication incurred by members of the Masonic or similar societies. Again, the method adopted for the removal of scandal might be different in the case of a dying penitent and a penitent who is not in danger of death. For instance, if it is publicly known that the dying man is a member of a condemned society, it is impossible to give him a Catholic funeral unless his renunciation of the society is made public at once ; while in the case of a convert who is not in danger of death the publication of his withdrawal from the society is not so urgent. Finally, some of the causes which excuse from carrying out the full letter of the law might more easily be present in the case of a dying penitent than in the case of a person who is not ill. For example, a dying person should not be warned of his obligation to denounce the secret leaders of the society unless it is certain that he will consent to its fulfilment. On the other hand, however, some of these excusing causes scarcely exist at all in the case of a dying person, such as the danger to life arising from malice.

#### CONDITIONAL EXTREME UNCTION

In the May number of the I. E. RECORD 'S. L.' asks for further guidance on the question of conditional Extreme Unction :—

The insertion of a condition when the doubt is ' *an periculosa sit infirmitas* ' is not plainly taught in our ordinary handbooks.

The Ballerini-Palmieri treatise, which deals rather fully with the various questions that arise in Moral Theology, says<sup>1</sup> that if there is a negative doubt ('si infirmitas sit periculosa') Extreme Unction is not to be administered, but it is to be administered if the doubt is positive—there is no suggestion of a condition. Neither does it appear to be the practice of the clergy to insert a condition under the circumstances. Any that I have asked about it say they never do so, and I have already quoted other experience. Is this practice wrong?

The teaching of Ballerini-Palmieri is the same on this subject of conditional Extreme Unction as that held with practical unanimity by the theologians. The complete text of Ballerini-Palmieri<sup>2</sup> is as follows:—

Quid si dubium sit, an infirmitas sit periculosa? Si dubium est negativum, negat cum Castropalao et Laymann, S. Alphonsus, n. 714, dari posse; quia praeceptum est ne aliis quam vita periclitantibus detur. Si vero dubium sit positivum, *sive adsit probabilitas periculi, seu prudens timor*, tunc potest dari, ut communiter traditur et Eugenius IV. docuit.

According to the common teaching of theologians Extreme Unction is to be conferred absolutely when there is *probable* danger of death, or, as the Ballerini-Palmieri treatise parenthetically explains it: 'Sive adsit probabilitas periculi, seu prudens timor.' The priests whom 'S. L.' mentions are perfectly right in administering Extreme Unction absolutely in these circumstances, as they are also perfectly right in not administering it at all when there is no probability of danger.

But the question remains: What is to be done when it is doubtful whether or not this probable danger is present? What is to be done when it is not certain whether the doubt ('an infirmitas sit periculosa') is negative or positive? The case is, when there are some reasons for thinking that the disease is dangerous, but it is not certain that these reasons are of such weight as to amount to a positive doubt of the nature explained in the parenthesis of the Ballerini-Palmieri tract. Obviously in this case it is doubtful

<sup>1</sup> *Tract. de Ex. Unct.*, n. 25.

<sup>2</sup> v. n. 856.

whether the person is capable of receiving the sacrament validly, and no theologian whom we have ever read says that in such a case the sacrament is to be administered absolutely. Nobody expresses this more clearly than Ballerini-Palmieri in the treatment of the subject of conditional administration of the sacraments:—

Porro quod de licita iteratione conditionata dicitur, valet et de licita simplici collatione conditionata. Huc revocari possunt regulæ pro licita iteratione sacramenti sub conditione. 1°. Si dubium de valore sacramenti nulli nitatur rationabili fundamento, illicita est iteratio, propter irreverentiam et per se sub gravi. . . . 2°. Si rationalis causa adsit, licet iterare sub conditione sacramentum et generatim causa rationalis est, quando sacramentum est necessarium et dubitatur vel utrum subjectum fuerit capax, vel utrum iam alia vice acceperit, vel utrum materia fuerit apta: dubium est scilicet circa valorem sacramenti. . . . 3°. Si licita sit iteratio et præterea obligatio adsit succurrendi proximo . . . licita iteratio evadit debita.<sup>1</sup>

This is precisely the teaching of Noldin, that the sacrament of Extreme Unction is to be administered conditionally 'when there is a *doubt* whether there is *probable* danger of death'—a teaching which 'S. L.' attempted to refute in the March number of the I. E. RECORD.

We may add that there are only two cases where the condition must be expressed in words. These cases are mentioned in the Roman Ritual,<sup>2</sup> one referring to Baptism and the other to Extreme Unction. The case of Extreme Unction is when there is doubt as to whether the person is alive or dead. In all other cases it is sufficient to have the condition mentally; it is even probable that it is sufficient to have an implicit condition such as every priest has who intends to confer the sacraments according to the institution of Christ.

J. M. HARTY.

<sup>1</sup> v. n. 667.

<sup>2</sup> Tit. ii. c. i; tit. v. c. i.



## CANON LAW

## DIVISION OF PARISHES—CANONICAL CAUSES REQUIRED

REV. DEAR SIR,—Will you kindly say whether the rule of the Council of Trent regarding dismemberment of parishes still holds. I have known of cases in which the conditions required by the Council could hardly be said to be fulfilled, but the parishes were divided all the same. The only reason given, as far as I know, was that the population had become much larger in the last thirty or forty years. I am not questioning the acts of those responsible, but I should like to know whether they have got greater powers than the Council ever thought of giving them.

PAROCHUS.

The principle governing the division of parishes, as laid down by the Council of Trent, runs as follows :—

In iis ecclesiis in quibus, ob locorum distantiam sive difficultatem, parochiani sine magno incommodo ad percipienda sacramenta et divina officia audienda accedere non possunt, novas parochias, etiam invitis rectoribus, juxta formam Constitutionis Alexandri III., quae incipit *Ad Audientiam*, constituere possunt (Ordinarii).<sup>1</sup>

For a long time this principle was taken very literally. Attention was paid almost exclusively to the distance that separated parishioners from the parish church, or to other material, as distinct from moral, difficulties that prevented them from coming or from having the sacraments duly administered. Dismemberment was regarded as the extreme remedy, to be applied only when all others failed. Even the fact that several had died without the sacraments as a result of existing conditions was considered an insufficient reason for dividing the parish, if the evil could be prevented for the future by the establishment of chapels of ease.<sup>2</sup> Division was classified among the *res odiosae* : it might entail alienation of Church property and should be prevented by all possible means ; appointment of additional curates, and the establishment of outlying churches in which they could discharge their duties, were almost

<sup>1</sup> Sess. xxi., *De Reform.*, c. 4.

<sup>2</sup> Rota, *Decis.* 484, n. 4 sqq.

invariably recommended as a preferable method. We need only refer to a long series of decisions given by the Congregation of the Council and the Tribunal of the Rota, extending over a period of nearly a century and a half.<sup>1</sup>

But a change began to take place as early as the middle of the eighteenth century. Numerous cases had arisen in which, though the conditions regarding distance demanded by the Council were not verified, parishioners were unwilling to come to the parish church, and were anxious to have a new parish set up with all the rights of a distinct community. Decisions of a milder character began to be given. Ferraris refers to them. After speaking of the strict principles enforced for a long time by the Congregation of the Council and the Rota, he says :—

At novissime in diversam abiit sententiam S. Congregatio Concilii interpres *in Comen.*, 3 Dec., 1756. Censuit enim deveniendum esse ad dismembrationem parochiae, tametsi rector veteris parochiae retinere offerret in aliqua capella capellanum qui occurrere valeret spiritualibus indigentibus parochianorum qui justa de causa instabant pro dismembratione. Ad evitandam dismembrationem recentius *in Nolana*, 1753 et 1755, oblata quoque fuit retentio non unius capellani, sed duorum, at minime ei adhaesit Sacra Congregatio : causa vero finem habuit concordia, qua facta fuit dismembratio et sic erecta nova parochia.<sup>2</sup>

The tendency became stronger still in the nineteenth century, as is evidenced by several Roman decisions, especially those of the Congregation of the Council.<sup>3</sup> The official commentator on the *Acta Sanctae Sedis* sums them up, and gives their general spirit : the old rules are to be abandoned, and the 'evident utility' of the Church taken as the standard for future cases :—

Nostris hisce temporibus S. Conc. Congregatio in diversam ivit sententiam : sapienterque id factum esse deprehendes si

<sup>1</sup> Of the Council : *in Aquen.*, 1721 ; *in Meliten.*, 1735 ; *in Asculana*, 1739 ; *in Novarien.*, 1760 ; *in Velana*, 1784, etc., etc.

Of the Rota : *Decis.* 204, 224, 484, 578, etc., etc.

<sup>2</sup> *Bibliotheca*, verb. Dismembratio, n. 50.

<sup>3</sup> *In Reatina.*, 1817 ; *in Urbinaten.*, 1852, 1853 ; *in Concordien.*, 1889, etc., etc.

parumper spectes aetatis nostrae ingenium. Mores depravati incautae iuventutis, permulti lupi qui furunt ut gregem devorent, nisi absolutam necessitatem, evidentem saltem utilitatem portendunt multiplicandi pastores. . . . Hinc etsi rectores paroecciarum oppositionem faciant ne deveniatur ad dismembrationem et saepe saepius adpromittant retinere unum vel plures capellanos . . . tamen dismembratio, ut plurimum conceditur. . . . Pernoscere est iurisprudentiam antiquam temperamentum accepisse. Nam dismembratio tunc temporis habita est tantum uti medium extremum : ita ut locum non haberet quoties necessitati consuli potuisset per Parochi Vicarium. A medio fere saeculo elapso mitius iudicatum est de evidenti ecclesiae utilitate, ita ut haec non confunderetur cum absoluta necessitate. Hinc praxi recentiori pene nulla habetur ratio de remediis subsidiariis vel extremis. Et quatenus utilitas in animarum bonum appareat, dismembratio decernitur, neque facili modo improbatur si ab Episcopo facta fuerit, praecipue si dos aut sufficientes redditus non desint pro novo parochio.<sup>1</sup>

A decision given by the Rota on March 4 of last year exemplifies the more recent tendency.<sup>2</sup> The parish of Alpisplana, in the diocese of Bobbio, is composed of three villages: the Upper Town or Vicosoprano, the Middle Town, and Alpisplana itself. The distance between them is nothing very considerable, certainly much less than the older canonists contemplated when they spoke of the distance that constituted a canonical reason for dividing a parish.<sup>3</sup> Due provision had been made for all ordinary contingencies by the erection of a chapel of ease, with a curate, enjoying rather extensive faculties, in charge. But other things had to be taken into account as well, especially a dispute of long standing between Vicosoprano and Alpisplana on this very point, and the consequent injury done to the religious interests of the whole community by the perpetuation of existing conditions.

The dispute dated back to the seventeenth century, when, as a partial concession to the demands of Vicosoprano,

<sup>1</sup> *Acta Sanctae Sedis*, xiii. App. vi. pp. 306-7.

<sup>2</sup> See *Acta Apost. Sedis*, Ann. iii. V. iii. pp. 202-212.

<sup>3</sup> In a note in the *A. S. Sedis* (xiii. p. 306) we find : 'S.C.C. opinionem in praxi saepe retinuit duo millia passuum sufficere ut dismembratio rite fieri possit.'



the Bishop of Bobbio established the church of ease in 1668, though Mass was not said there on Sundays and Feasts till thirty years later, and the appointment of a permanent chaplain came later still. The arrangement did not settle the question, one party clamouring for separation, the other equally strong in its demand that there should be no change. The Congregation of the Council was appealed to in 1766, and decided that there were not sufficient grounds for a division of the parish, but that the chaplain should have much wider powers than he had enjoyed up to the present. The powers were granted, and further amplified in 1786, but the old feeling still remained, even when the old church had fallen into ruins and a new one been erected much nearer to Vicosoprano. At last, in 1841, the Bishop declared himself willing to erect a new parish, if suitable arrangements could be made regarding temporalities. That was impossible just then, but the next sixty or seventy years made a change, and on November 19, 1907, Mgr. Castelli, Archbishop of Fermo and Apostolic Administrator of Bobbio, acceded to the wishes of Vicosoprano and erected the new parish, imposing certain obligations on it in regard to the mother church.

The decision was appealed against, as might have been expected. The Congregation of the Council, and subsequently the Tribunal of the Rota, was asked to answer the following query :

An rata habenda sit vel potius revocanda dismembratio facta per decretum diei 19 novembris 1907 in casu ?

Which the Rota answered by deciding :—

*Affirmative* ad primam partem, *Negative* ad secundam, firmo tamen iure ecclesiae Alpisplanæ peragendi annuam collectionem oblationum in parochia Vicisuperioris, uti in decreto Episcopi : necnon exigendi extraordinariam contributionem saltem operum ab Episcopo determinandam et urgendam ad normam ss. canonum, si ecclesia Alpisplanæ indigeat gravibus et extraordinariis reparationibus.

All of which goes to show the contrast between the older jurisprudence and the new, and confirms the opinion that

the canonical causes for division of parishes are to be interpreted in a much wider sense than before. Most of the recent writers insist on it. Bargilliat may be taken as typical; and his statement is of special interest in view of one of the remarks made by our correspondent. 'Ingens multitudo populi,' he says, 'non est *per se* causa sufficiens dismembrationis.' But he continues:—

Attamen, si, ob nimiam multitudinem populi, parochus non potest, etiam vicariis sibi in officium consociatis, suam parochiam convenienter regere neque 'oves suas agnoscere,' et per novae parochiae erectionem melius animarum bono consulatur, absonum videtur Episcopo denegare facultatem dismembrandi.

Nam pro suprema lege, etiam in hoc, habetur animarum salus. Ideo dismembrationi favet nuperrima S. C. Concilii jurisprudentia: notum est enim sanctam matrem Ecclesiam, cum teneat parochum populo, non populum parochus dari, disciplinares suas ordinationes ad varias temporum vices attemperare.<sup>1</sup>

#### CELEBRATION OF MASS WITHOUT A SERVER

REV. DEAR SIR,—Is it true that a change has been made, or is likely to be made, in the regulations about not saying Mass without a Mass-server?

SACERDOS.

We are not aware that any change has been made in the regulations referred to. The only document we have seen bearing on the subject is one given in the *Nouvelle Revue Théologique* of last December (page 742), taken from another French periodical of August 10 of the same year. It tends to confirm the old regulation rather than to introduce a new one. We give it in full:—

Pour répondre au désir que lui avaient manifesté plusieurs prêtres du diocèse de Sens, se plaignant de ne pouvoir trouver ni servant ni assistant pour célébrer la sainte messe, Mgr. Ardin a consulté la sacrée Congrégation des Sacrements pour savoir ce qu'il y a lieu de faire en semblable occurrence.

Sa Grandeur a reçu la réponse ci-dessous:

'Après avoir soumis à un examen attentif la lettre de Votre Grandeur, par laquelle vous demandez pour vos prêtres la faculté d'offrir le saint Sacrifice de la messe sans qu'il y ait ni servant ni

<sup>1</sup> *Jus. Can.*, ii. n. 8445.

assistant, la Sacrée Congrégation des Sacrements a jugé devoir vous répondre comme il suit :

‘Qu’on fasse une demande spéciale pour chaque cas, en exposant toutes les circonstances ayant rapport à la question, et principalement qu’on établisse l’impossibilité absolue où l’on est de trouver personne qui puisse servir le prêtre qui célèbre la sainte messe.

‘Rome, 7 juillet 1911.

‘CARD. FERRATA, *préfet.*’

About what is ‘likely’ to be done we do not think we need trouble. There appears to be no likelihood of anything special being done just at present.

#### JURISDICTION OF THE HOLY OFFICE IN REGARD TO CERTAIN MARRIAGES

REV. DEAR SIR,—Has the Holy Office got full power over all matters connected with mixed marriages? Or is its jurisdiction confined to dispensations from impediments and the like? I see that some authors maintain it has still got judicial powers. How can that be reconciled with the general principle underlying the *Sapienti Consilio*?

VICARIUS.

For some time after the recent reform in the Roman Curia there was a considerable difference of opinion on the first point raised. If our correspondent consults the *Acta Apostolicae Sedis*<sup>1</sup> he will see that to settle doubts on the matter the Holy Office proposed the following question to the Consistorial:—

Quale sia la competenza del S. Offizio in fatto di matrimonii misti, sia tra battezzati e non battezzati, sia tra cattolici ed acattolici, tanto dal lato pratico, ossia per la concessione delle dispense, quanto dal lato teorico, ossia per la risoluzione dei dubbi che possono sorgere su tale materia, anche nei riguardi del recente decreto *Ne temere*.

The Consistorial replied :

‘Competentiam S. Officii se extendere ad omnia quae, sive directe sive indirecte in iure aut in facto, se referunt ad Privilegium Paulinum et ad praefatas dispensationes,’

<sup>1</sup> Vol. ii. p. 56, n. 2. (February 15, 1910.)



According to the text of the *Sapienti Consilio*, therefore, as interpreted authentically by the Consistorial, the jurisdiction of the Holy Office extended to everything that, directly or indirectly, in law or fact, concerned the Pauline privilege and dispensations from the impediments of mixed religion and difference of worship: other questions regarding marriages between baptized and non-baptized persons or between Catholics and non-Catholics were outside its power.

The Congregation, however, added 'ad mentem'; and the 'mens' was that 'His Holiness should be petitioned to decree that all questions regarding the said marriages should be referred to the Congregation of the Holy Office, power being left it, if it so thought fit and the case demanded, to refer the matter to some other Office of the Holy See.' The request was granted:—

Ss̃mus . . . resolutionem ratam habuit et confirmavit, mandavitque ut in posterum quaelibet questio circa matrimonia mixta deferatur S. Congregationi S. Officii juxta petita, sub lege tamen, ut firma semper et in omnibus maneat dispositio decreti *Ne temere* in art. xi. n. 2° et 3° statuta.<sup>1</sup>

As a result of this special extension of its powers, the Holy Office has now jurisdiction over *all* such matters. As to whether it retains its judiciary power in these matrimonial cases, authorities are divided. On the negative side we have Ojetti,<sup>2</sup> de Mester,<sup>3</sup> Gaugusch,<sup>4</sup> etc., all relying, as our correspondent apparently does, on the general principle that only matters of voluntary jurisdiction are to belong to the Congregations, contentious matters being reserved to the sole control of the Tribunals. The affirmative side is supported by Simier<sup>5</sup>:—

La jurisdiction de la Sacrée Congrégation, ex ces matières, demeure donc à la fois administrative et judiciaire; ne dirimant

<sup>1</sup> *Acta Apost. Sedis*, *ibid.*

<sup>2</sup> *De Romana Curia*, p. 59.

<sup>3</sup> *Ibid.* p. 19.

<sup>4</sup> In the *Archiv. für k. Kirchenrecht*, lxxxix. 1909, p. 614.

<sup>5</sup> *La Curie romaine*, p. 17.

pas seulement ici les controverses doctrinales ou donnant des dispenses, mais connaissant encore des procès de nullité de mariage, par exemple, intentés à cette occasion.

And by Besson<sup>1</sup>:—

Comme la constitution déclare que son pouvoir [that of the Holy Office] sur ce sujet demeure entier, *integra manet S. Officii facultas*, il s'ensuit qu'elle garde juridiction non seulement administrative, par exemple pour accorder dispense ou trancher les doutes doctrinaux, mais encore judiciaire, par exemple dans les procès de nullité de mariage intentés de ce chef.

And by Cappello in his work on the Roman Curia.<sup>2</sup>

Pending a decision on the matter, we are inclined to think that the second opinion is correct. No change in the jurisdiction of the Holy Office can be shown except in so far as the *Sapienti Consilio* demands it, and the words of the Constitution are: '*integra manet S. Officii facultas ea cognoscendi quae circa Privilegium, ut aiunt, Paulinum, et impedimenta disparitatis cultus et mixtae religionis versantur.*'

A general principle should, of course, be maintained, but not at the expense of a particular case for which special provision has been made. '*Generi per speciem derogatur.*' And we 'reconcile' the contradiction in the same way as we 'reconcile' every general rule with the exceptions that, for special reasons, have got to be made.

M. J. O'DONNELL.

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<sup>1</sup> *Nou. Rev. Théol.*, t. 41, p. 8. He speaks much more guardedly, though, in the June number for 1910 (t. 42, pp. 356-7).

<sup>2</sup> Pp. 100 sqq.

## LITURGY

WHERE SHOULD THE MONSTRANCE BE PLACED DURING EXPOSITION? WHAT IS A THRONE? THE TABERNACLE VEIL WHEN THE CRUCIFIX STANDS ABOVE THE TABERNACLE

A DISTINGUISHED correspondent has forwarded a communication which raises some points of practical importance in connexion with Benediction of the Blessed Sacrament. 'I believe it is irregular,' he says, 'to place the Most Blessed Sacrament at Benediction where the crucifix usually stands.' Further on he writes: 'I see a throne with canopy for the Most Blessed Sacrament mentioned in the books, but I cannot find out what exactly is necessary.' Finally, 'I presume the veil should cover the whole exterior of the tabernacle, yet if the large crucifix for Mass be placed on the tabernacle this requirement seems impossible to carry out. These points are so little attended to that a discussion of them at your convenience in the I. E. RECORD would, I think, be useful.'

The following decrees of the Congregation of Rites leave no room for doubt regarding the first point:—

(1) Num tolerari possit usus statuendi Crucem super Throno, *et in eo præcise loco*, super quo publicae adorationi in Ostensorio exponitur SS<sup>ma</sup> Eucharistia? Et quatenus affirmative, num tolerari possit usus Crucem ipsam superimponendi Corporali quod Expositioni inservit?

*Resp.* Negative in omnibus.<sup>1</sup>

(2) An Crux cum imagine Crucifixi, in medio Altaris collocanda, etiam in Altari, ubi Sanctissimum asservatur, collocari possit immediate ante ejus Tabernaculum; aut super ipsum, vel in postica ejus parte collocari debeat?

*Resp.* Crux collocetur inter candelabra, numquam ante ostium Tabernaculi. Potest etiam collocari super ipsum Tabernaculum, non tamen in Throno ubi exponitur Sanctissimum Eucharistiae Sacramentum.<sup>2</sup>

From these decrees it is clear that the crucifix for Mass may be placed above the tabernacle. It is also generally

<sup>1</sup> Decr. Auth. 3576, ad iii.

<sup>2</sup> Decr. ii., Junii, 1904.



laid down that the throne, which is supposed to be used for Exposition, may be placed in the same place. A doubt may still be raised whether, if such a throne is used, it may occupy the place usually occupied by the crucifix; in other words, whether, if the crucifix usually stands over the tabernacle, the throne for Exposition may be erected there, or only in the case when the crucifix occupies some other position. The words 'in eo præcise loco super quo,' etc., would seem to imply that the throne for Exposition can only be placed over the tabernacle when the crucifix occupies some other position on the altar. But whatever may be said of the case in which a movable throne is used, there can be no doubt, we think, that these decrees condemn a practice which is very common amongst us. On our altars the crucifix usually stands over the tabernacle, and when Benediction has to be given it is simply taken down and the monstrance on a corporal put in its place. The crucifix and monstrance, therefore, occupy precisely the same place contrary to the decree of 1883.

In some altars, indeed, there is a fixed throne consisting of a canopy of wood or stone supported by pillars, and placed immediately over the tabernacle. But here, again, the top of the tabernacle constitutes the base of the throne and on it the crucifix usually stands. Of such an arrangement Van der Stappen wrote,<sup>1</sup> 'minus probanda est hæc dispositio.' But the Congregation of Rites has recently<sup>2</sup> gone further and absolutely condemned it:—

Quum difficile sit habere Thronum Expositionis inamovibilem nisi Crux ponatur in eo; quaeritur: Utrum liceat super Tabernaculum erigere Thronum, seu parvum ciborium fixum pro Expositione Sanctissimi Sacramenti; an debeat erigi Thronus tantummodo propter Expositionem et amoveri post Expositionem?

*Resp.* Negative ad primam partem; affirmative ad secundam.

The principle on which this kind of fixed throne is condemned is that laid down in 1883—the crucifix and monstrance would occupy precisely the same place; the crucifix would stand *in throno*, and, as Van der Stappen

<sup>1</sup> Vol. iv., q. 178, n. i.

<sup>2</sup> May 27, 1911.

remarks, 'inconsulte idem honor tribueretur Cruci qui SS. Sacramento debetur.' Any similar structure, even though not placed immediately above the tabernacle, is open to the same objection, and cannot be used both for the crucifix and the monstrance. If it is to be regarded as a throne, then the crucifix must be placed in some other position; if the crucifix remains there, then the structure cannot be used as a throne, and must be regarded merely as an ornament. Though the Congregation of Rites seems more in favour of a movable throne for Exposition of the Blessed Sacrament a fixed one is strictly in accordance with the rubrics, provided it is not made to serve any other purpose; and in some altars recently erected a fixed throne is provided in the reredos, slightly separated from the altar itself—as is the case in the new altar in Maynooth College—or even in a wall behind. The Master of Ceremonies of Westminster proposed the following among other queries last year: 'Num liceat thronum Expositionis construere in muro paucis metris ab altari sejuncto?' The answer was: 'Affirmative, dummodo thronus expositionis haud nimis distet ab altari, cum quo debet quid unum efficere.' Where space permits this is an excellent arrangement, and might be adopted with advantage in the case of altars to be erected in future. Another arrangement, suggested by Van der Stappen, is to have a space behind the tabernacle on which a movable throne (or the monstrance, if there is no throne) might be placed. One might add that such a space might conveniently be used for the crucifix, and the top of the tabernacle reserved for Benediction. In the case of altars already erected it may be possible, by a slight alteration, to place the crucifix in such a position that there will be no danger of violating the decree of 1883. But until this is done, or if found to be impossible, the monstrance should be placed on the table of the altar. For it is generally laid down that the throne may be erected there. And where there is no throne the monstrance might be as well placed on the table of the altar as anywhere else. At any rate the decrees we have quoted will not be violated.

2. As is evident all these decrees, and in fact all writers

on Liturgy, presuppose the existence of a throne for Exposition of the Blessed Sacrament; yet, with the exception of the fixed form, the existence of the throne in the strict sense is almost unknown in Ireland. We sometimes see little platforms of gilt wood or other material on which the corporal is spread. But such a contrivance is not a throne at all—it is at most only the base of one. A throne, whether fixed or movable, consists essentially of three parts—the base, the back and the canopy. When the throne is fixed these parts are usually of some kind of stone, though not necessarily so. For a movable throne any decent material may be used, and the exact form is not prescribed, but, as in the case of a fixed throne, it has usually the appearance of a niche, the back and sides of which are wholly or partially covered with silk while the front is open. The canopy overhead is the most essential portion of all, and is often crown shaped.

Is a throne of obligation? As stated already, the decrees of the Congregation of Rites, and writers generally, take it for granted that a throne is always used for Exposition of the Blessed Sacrament. And perhaps for this very reason one cannot find any decree which definitely prescribes it. The following words, however, occur—more or less as an *obiter dictum*—in a decree of 1875: ‘Sacramentum ipsum exponendum est sub throno, eminentiori loco.’ Gardellini taught that, when the altar has a *baldachinum* supported by pillars—as in some of our Irish cathedrals—or suspended from the roof, there is no necessity for a throne, as the *baldachinum* supplies the place of a canopy. He adds that in such circumstances the use of a throne was dispensed with in a number of churches even in Rome. This opinion has been combated, almost vehemently, by Dr. Piacenza.<sup>1</sup> He argues that a throne is required for Benediction on precisely the same ground that a canopy is required for a procession of the Blessed Sacrament, and mentions various other reasons in support of his contention. According to this authority, then, a throne is always required even when there is a *baldachinum*.

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<sup>1</sup> Vid. *Ephemerides Liturgical*, vol. xix. pp. 91 et sqq.



*chinum* over the altar, and; of course, *a fortiori* when there is not. In this opinion he was followed by many modern writers. The precise question at issue was proposed to the Congregation of Rites in the following terms:—

Utrum alio Throno, seu baldachino parvo, opus sit ad Expositionem SS<sup>m</sup>i Sacramenti, ubi magnum baldachinum, seu ciborium,<sup>1</sup> invenitur?

*Resp.* In casu servari potest consuetudo quae viget.<sup>2</sup>

Thus each church in which such an altar exists is free to continue its own custom. This answer does not touch at all the far more common case in which there is no *baldachinum* of any kind over the altar. Writers cannot point, however, to any definite general law on the matter. Dr. Piacenza can only say: ‘*Alia tamen lex, licet non scripta in libris liturgicis sed antiquitus observata, jubet, ut, quando SS. Sacramentum solemniter exponitur adorationi fidelium per Ostensorium, in throno collocetur.*’ But what is to be said of places where this unwritten law has never been observed? One might fairly argue from the answer just quoted that the *baldachinum* which we see over the altars in some of our churches is so far elevated above the monstrance that it can scarcely be said at all to be a canopy for the Blessed Sacrament, and it is not stretching things very much to say that when the custom is tolerated of not using a throne under such a *baldachinum* a similar custom where there is no *baldachinum* at all should not be condemned. Synodal legislation as well as custom impose an obligation in this matter in most Catholic countries. But for us there exists neither a custom nor a law of any kind.

3. The Ritual says: ‘*Tabernaculum Conopeo decenter opertum.*’ When the top of the tabernacle is a flat surface this rubric will be amply observed by covering the sides with a veil as far as possible. In this case there can be no difficulty regarding the large crucifix for Mass. But even though the top is rounded it must still be surmounted by a cross of

<sup>1</sup> Another name for the same thing.

<sup>2</sup> May 27, 1911.

some kind so that the canopy or veil must not cover absolutely 'the whole exterior.' Whatever the shape the large crucifix for Mass may stand over the tabernacle, and the veil or canopy should be arranged accordingly.

**PRIVATE EXEQUIAL MASS 'PRO PAUPERE DEFUNCTO'—  
MAY THE PRIVILEGE BE EXTENDED TO OTHERS ?**

REV. DEAR SIR,—Will you kindly say whether a *Missa privata exequialis* can be said on Easter Monday or Tuesday *praesente cadavere*, (a) 'pro paupere defuncto'; (b) also for one—not poor—but where, as in many parts of Ireland, it is only rarely that a *Missa Cantata* is offered up *etiam praesente cadavere*? In a word, where the custom is not to have a *Missa Solemnis* or *Cantata*, may persons, such as farmers, who are able to have a few clergy at the funeral, be regarded as *pauperes*, and have the same privileges as in *De Missis pro defunctis* (*Ordo*, p. xii. n. 3)? Their not having priests for a *Missa Solemnis* is the result rather of custom than of poverty.

PAROCHUS.

(a) A Solemn Exequial Mass or a *Missa Cantata* may be sung on the days mentioned, and therefore a Mass may be said 'pro paupere' on these days, according to the decree of 1899.

(b) This concession was at last made after repeated refusals, and, according to the custom of the Congregation of Rites, when changes of importance are about to be made, received the special approval of the Pope. It is granted 'pro paupere defuncto, cujus familia impar est solvendi expensas Missae exequialis cum cantu,' and for no others. According to the hypothesis made the people mentioned are able to defray the expenses of a Solemn Requiem Mass or a *Missa Cantata*, and therefore the privilege cannot be extended to them. The custom referred to should rather be termed an abuse. This, of course, does not refer to the 'corpse-house' Mass.

THOMAS O'DOHERTY.

## CORRESPONDENCE

LEGAL FORMALITIES FOR 'MIXED MARRIAGES,' ETC.,  
IN IRELANDJOHN'S BRIDGE, KILKENNY,  
6th May, 1912.

REV. DEAR SIR,—As my communication respecting the legal formalities for 'mixed marriages,' for which you kindly found place in your April issue, has been read with attention in various quarters, I venture to supplement it by some observations of closer detail.

It is to be noted, of course, that the *desideratum* as regards marriage formalities is not merely that a marriage should stand the test of legal investigation into its civil validity, but that such validity should be so indisputable in every, even non-essential, detail that the harmony and unison of the married couple may stand no risk of being broken by an appeal to the law courts on some frivolous alleged informality, which, however untenable as a ground for declaring the ceremony civilly void, may feed a desire, formed on other grounds, of setting the marriage aside, which desire, apart from such unsubstantial nutriment, would have been stifled, as impossible of attainment, by the party affected by it.

My observations are largely written, and should be read, from this point of view.

Section 25 of the Act of 1871 enacts that 'Every Roman Catholic Bishop may, by writing under his hand ['under his hand' means 'signed'] nominate persons' to issue marriage licences.

I rather think the office so created is sufficiently self-subsistent in character—*Ding-an-Sich*, so to speak—to continue 'well filled' after the Bishop who has made the appointment ceases to hold office; but I can only give this as a strong opinion.

Further, though the section says 'persons,' having regard to the definite restrictions surrounding the appointment of a deputy, I do not think it safe to assume that the statute contemplates more than one licensing authority for each area of the licenser's jurisdiction (usually, I presume, the Diocese).

It certainly seems desirable that a new Bishop should formally



re-appoint in writing the same person, though, as stated, this is, probably, unnecessary.

No power of removing a person once appointed being given in the statute, the power of removing, or the absence thereof, in my opinion, probably depends on the existence or otherwise of such power in the internal discipline or Church law governing the relation of the Bishop and the appointed person.

In practice, however, if removal is ever necessary (e.g., should a new Bishop desire to make a different appointment), the change should, in my opinion, be effected by the appointed person resigning the office in writing, such resignation not being 'demanded' under any implication of authority to remove if resignation be not effected, which is just the question not free from doubt.

Section 29 gives the person appointed, in case of sickness or unavoidable absence, the power of appointing a deputy for any period not exceeding two calendar months at one time, with the *written* approval of the person or authority by whom such person was appointed or of the person for the time being exercising his (i.e., the Bishop's) functions.

The section does not say that the actual appointment must be in writing, though the Bishop's approval must. The former detail may, I consider, be safely relied on in cases of illness affecting physical powers of writing and signature but not impairing verbal declarations. Of course in all other cases the appointment should be in writing, and in all cases, without exception, a definite period should be named, at the end of which the deputy must be careful to regard himself as *functus officio* and cease to act further, even though the principal's return after absence be simply overdue a day or two.

The statutory words are 'to act as his deputy.' In my opinion, the death of the principal renders the deputy *functus officio*, so that, e.g., a deputy appointed during serious illness of the principal should not act after the death of his principal till new arrangements have been made, and any licence issued by him in the interval between the principal's death and his becoming aware of such death should be cancelled on his learning of the death, as, in my opinion, it could not be quite safely relied upon as indisputably valid.

With regard to the notice to the clergymen officiating at the places of worship which the respective parties are in the habit of attending, required, in the case of a 'mixed' marriage, by section 27 of the Act of 1871, regard should be paid to the possi-

bility of inaccurate information being supplied, either accidentally or otherwise—especially on the part of the non-Catholic party intending to marry outside the rites of his (her) own Church—and its accuracy should be verified as far as possible.

Difficulties will sometimes arise. For instance, here in Kilkenny there are three Protestant Episcopal churches bearing three different parochial names, but all, I understand, forming one 'parish of Kilkenny.' Many of the congregation are 'in the habit of' attending one church regularly for morning service and another for afternoon or evening service. In this case it would seem best to serve a copy of the notice on the 'clergyman officiating' at both churches. I could not, personally, for instance, say, without inquiry, what clergyman distinctively officiates at any of the three churches, but in any such case a note of inquiry to any of the clergymen, asking the name of the 'clergyman officiating' distinctively at each such church, should elicit a prompt reply.

Again, one may take the case of a Protestant workhouse or asylum official attending service oftener inside the institution than outside. Here, too, it would seem well to serve both the chaplain of the institution and the 'clergyman officiating' at the outside place of worship most frequented by the person in question.

The section specifies serving a 'copy' of the notice of the application for the licence. Not improbably the mention of a 'copy' is directory only and not mandatory (i.e., calling not for meticulous but merely substantial compliance), so that a letter embodying all the information contained in the notice of application would probably be sufficient, but, of course, strict compliance is far preferable.

The sending 'by post,' too, is, in my opinion, directory, not mandatory; but apart from any risk of error in considering substantial compliance sufficient, sending 'by post' seems to discharge the statutory duty even if the copy of the notice fails to reach its destination, while sending by any other means seems to cast the onus of proving receipt on the sender.

Of course 'registered post' should always be adopted in practice, and the post office receipt for the letter carefully preserved.

As regards the giving notice to the licensing authority seven days before the licence is issued in case of a 'mixed' marriage, I consider it safer to count from the day the application for the licence is received; and as the statute intends seven days as a

minimum period, I think seven 'clear days' should be reckoned between the receipt of the application and the issuing of the licence, e.g. (on what has already been said alone, apart from the next observation), a licence on foot of an application received on a Tuesday should not be issued till the Wednesday of the following week.

Further, however, I think that, as a matter of precaution, the seven days ought to be reckoned (in manner above stated) from the time at which the clergymen of the respective places of worship would both have received the copy of the application in the ordinary course of post. This—advisable, *ex abundante cautela*, in every case—should be followed without fail, as a matter of course, whenever, for any cause, the copy of the notice of application is not posted on the same day on which the said notice is received by the person authorized to issue licences, as the section says 'forthwith send by post.'

It should also be borne in mind that compliance with the statutory requirements should be made with just as much care in serving the clergyman of the Catholic party's place of worship as the clergyman of the non-Catholic party's.

Where either party—especially if it is the non-Catholic party—is not domiciled in the United Kingdom, it is, in my opinion, not desirable either to treat the clergyman officiating at his (her) usual place of worship during sojourn in the United Kingdom as the proper person to serve under the Act of 1871, or to send such notice to a clergyman outside the United Kingdom, or even to serve both. In such a case I consider that the procedure by licence under the Act of 1871 should not be availed of, but the marriage carried out by notice to and certificate from the registrar of the district in which the church in which the marriage is to be celebrated is situated, under the Acts of 1844, 1863 (chapter 27), and 1870. (By a slip I spoke of the Act of 1863—with which as with that of 1844 the Act of 1870 is to be considered incorporated—as 'purely a registration Act,' on the last page of my former communication: there are two Marriage Acts of 1863 (chapters 27 and 90), and it is the former that is here referred to, while chapter 90 is the Registration Act, but this does not affect the correctness of anything I said in my former communication.)

Attention may here be directed to another class of 'mixed marriages,' viz., those of 'mixed' nationalities, whether the parties are both Catholics or not.

It is well known that the civil law of marriage shows remark-



able divergencies in different countries, and many cases of hardship have arisen through persons married to foreigners under United Kingdom legal forms finding the ceremony civilly invalid in the place of domicile of the other party.

To meet such cases, the Marriage with Foreigners Act, 1906, was passed, providing that the Government authorities may enter into arrangements with any foreign country (the United States, of course, ranks as a foreign country) that in the case of a person subject to the marriage laws of that country who is about to be married in the United Kingdom, all the notices and consents necessary for his valid marriage according to the civil law of the country to whose marriage law he is subject may be given and a certificate to that effect supplied by the authorities of that country.

Any such person is bound under penalty immediately before the marriage ceremony to inform the clergyman of his being subject to the marriage law of such country, and such clergyman is thereupon bound, under penalty, not to celebrate the marriage unless the certificate above referred to is produced.

I cannot say, offhand, with respect to what countries the Act has up to the present been brought into effect, but a letter of inquiry to the Foreign Office, London, would elicit this information.

I desire respectfully to suggest that it might be made part of the officious duty of any parish priest made acquainted of the intended marriage of a parishioner with a foreigner (including a citizen of the U.S.A. and a person originally of 'British' (Irish) nationality, who has been resident outside the United Kingdom) to take care—if possible before the date of the wedding is fixed—that the certificate required by the Act is procured, if the person is subject to the marriage laws of a country with respect to which the Act has been made effective, and, if not, to see that equivalent steps are taken to obviate the hardship for the prevention of which the Act was framed.

Of course, a certificate under the Act is no guarantee of the legitimacy under Church law of the party's intending marriage. There may, for instance, be a wife or husband alive from whom he or she is divorced and left civilly, but not from a Catholic standpoint, free to marry again. On the other hand, a certificate or licence of a *nihil impedit* character from the parish priest of the party's place of domicile cannot in itself be regarded as at all equivalent in meaning to a certificate that no civil obstacles exist and that all necessary notices and consents have been given

to render his (her) intending marriage under British law civilly valid in the country to whose marriage laws he (she) is subject, which is the matter to which I am now directing attention.

Faithfully yours,

F. W. DOHENY (Solicitor).

[I am not aware of any legal decisions on any question above referred to, nor do I think it very likely that there are any such, but it seems well to point out that some may be in existence either confirming or negating the opinions I express. 'Looking up cases,' however, is distinctly the province of counsel, not of a solicitor.—F. W. D.]

### PRIESTS' EUCHARISTIC LEAGUE

REV. DEAR SIR,—Will you kindly publish the annual statement of the Priests' Eucharistic League? During 1911 fifty-two Irish priests joined the Irish Branch of the Priests' Eucharistic League. In April, 1912, there were over 91,500 priests enrolled in the various branches of the League. The object of the Eucharistic League is to draw nearer to our Lord Jesus Christ, abiding in the Most Holy Eucharist, the priests, 'His friends,' to bring them into closer connexion with this most sanctifying Sacrament, the beginning and end of the Catholic Priesthood.

*Its Conditions of Admission*—First, to be a Priest, or in Holy Orders. Second, to have one's name and surname written in full in the Register of the Association.

*Its Means and Obligations* are—(1) To make every week one continuous hour of adoration before the Most Holy Sacrament, exposed or in the Tabernacle. (2) To return regularly at the end of every month to the Director the ticket of adoration (*libellus*). This is enjoined to preserve the Association from stagnation, and serves to remind the priest of his weekly duty. (3) To say one Mass annually for the deceased members.

*Its Privileges* are—(1) A plenary indulgence each time they make one hour of adoration before the Most Holy, even if they make it every day. (2) A plenary indulgence on the day of admission, on certain feasts, etc. (3) The innumerable indulgences called 'della Stazione del Santissimo Sacramento' each time they visit the Blessed Sacrament and recite six Paters, Ave, and Gloria Patri. (4) To anticipate Matins and Lauds from one o'clock p.m. (5) To bless and impose the Scapular of St. Joseph; to bless with indulgences the Little Crown of the Immaculate

Conception ; to admit members in the Third Order of St. Francis. (6) To attach to rosaries the Crozier indulgences, by which the owner is entitled to 500 days' indulgence for each Pater or Ave.—(Pius X. to Bishop Maes, May, 29, 1907.) (7) All the Masses said for deceased members are *privileged* Masses.—(Pius X., February, 1905.)

There are two monthly publications, one in English, the other in French. A copy is sent to each member. Two and sixpence per annum is the subscription.

The members are asked to spread the Archconfraternity of the Blessed Sacrament, in which the laity engage to spend one continuous hour of adoration before the Most Holy Sacrament each month. Already 20,000 are enrolled in different parts of Ireland. The only obligation is to be enrolled and to make the hour. There is no subscription, but members requiring leaflet and diploma are charged one penny. There is a penny Manual of the Archconfraternity brought out by the Catholic Truth Society, O'Connell Street, Dublin. A wonderful increase in devotion to the Blessed Sacrament is to be seen wherever the laity have been enrolled.

Any information as to the Priests' Eucharistic League, or the Archconfraternity of the Blessed Sacrament, will be given by

THE REV. DIRECTOR,  
35 Newtown Avenue,  
Blackrock, Co. Dublin.



## DOCUMENTS

## THE FEAST OF CORPUS CHRISTI AND OTHERS

## SACRA CONGREGATIO CONCILII

## LITTERAE

## CIRCA DIES FESTOS

Plurimis ex locis pervenerunt ad hanc S. Congregationem Concilii supplices libelli, quibus instantissime postulatur ut omnes aut nonnulli dies festi de numero festivitatum sub praecepto per litteras Apostolicas diei 2 iulii 1911 expuncti, in pristinum restituantur, tum ad satisfaciendum pietati fidelium id enixe expectantium, tum ob alias peculiare cuiusque loci rationes. Potissimum vero supplicatum fuit ut festum Ss̃mi Corporis Christi celebrari possit cum solemni processione et pompa, ut antea, feria V. post Dominicam Ss̃nae Trinitatis, eam praesertim ob causam quod huiusmodi processione defectum non sine animi moerore et spirituali iactura pati videantur populi, qui eam diem specialiter solemnem habere et miro splendore celebrare consueverunt.

Porro, Ss̃mus Dñus N. Pius PP. X., Cui relatio de praemissis facta fuit ab infrascripto Cardinali huius S. Congregationis Praefecto, plane cupiens ne, ex praepostera aut non recta interpretatione praedictarum litterarum, fidelium pietas ac debitus Deo cultus imminuantur; volens imo ut, quoad fieri possit, augeantur, haec quae sequuntur declarari, praecipere atque indulgeri mandavit:

1°. Quum, perpensis temporum rerumque novarum adiunctis, Summus Pontifex nonnullos dies expunxit e numero festivitatum sub praecepto, quemadmodum non semel a Suis Decessoribus factum fuit, minime sane intellexit ut eorum dierum festivitas omnino supprimeretur: vult immo Sanctitas Sua ut iidem dies in sacris templis celebrentur non minori quam antea, solemnitatem, et, si fieri potest, eadem populi frequentia. Ea vero fuit et est Sanctitatis Suae mens, ut relaxata maneat tantummodo sanctio qua fideles tenebantur iis diebus audire Sacrum et abstinere ob operibus servilibus; idque potissimum ad evitandas frequentioris praecepti transgressionem et ne forte contingeret ut, dum a multis Deus honorificatur, ab aliis non sine gravi animarum

detrimento offenderetur. Praecipit itaque Eadem Sanctitas Sua omnibus et singulis animarum curam gerentibus ut ipsi, dum haec commissis sibi gregibus significant, ne cessent eos hortari vehementer ut, iis etiam diebus, pergant suam in Deum pietatem et in Sanctos venerationem, quantum maxime poterunt, testari, praesertim per frequentiam in ecclesiis ad audienda sacra aliaque pia exercitia peragenda.

2°. Quo autem Christifideles magis excitentur ad supradictos dies festos pie sancteque excolendos, vigore praesentium litterarum, conceditur omnibus locorum Ordinariis ampla facultas dispensandi cum suis subditis super lege ieiunii et abstinentiae, quoties dies abstinentiae vel ieiunio consecratus incidat in festum quod, licet praecepto non subiectum, cum debita populi frequentia devote celebratur.

3°. Item, per praesentes litteras conceditur ut festum Ss̃mi Corporis Christi, ubi Sacrorum Antistites ita in Domino expedire censuerint, etsi praecepto non obstrictum, celebrari possit cum solemnī processione et pompa, prout antea, feria V. post Dominicam Ss̃mae Trinitatis; contrariis quibuscumque non obstantibus.

Datum Romae ex Secretaria Sacrae Congregationis Concilii, die 3 maii 1912.

C. CARD. GENNARI, *Praefectus*.

O. GIORGI, *Secretarius*.

L. ✠ S.

## DECREE ON NEW RUBRICS

### DECRETUM

#### SEU DECLARATIO SUPER NOVIS RUBRICIS

Novis dispositionibus a Sancta Sede evulgatis, ad S. Rituum Congregationem pro opportuna solutione insequentia dubia delata sunt; nimirum:

I. Quum in novis Rubricis unicum praescribatur Suffragium de Omnibus Sanctis in quo mentio fit de Sancto Ecclesiae Titulari, quaeritur quid faciendum in Ecclesiis habentibus pro Titulo aliquod Domini Mysterium?

II. An Suffragium de omnibus Sanctis locum habeat in Vigilia Omnium Sanctorum, quando de ea fit Officium aut Commemoratio in Officio semiduplici?

III. An versiculus *Oremus et pro Antistite nostro N.* cum suo responsorio, nuperrime inter Preces feriales insertus, dicendus

sit etiam ab Episcopis Titularibus cum pronuntiatione nominis Episcopi Dioecisani ?

IV. Num idem versiculus dicendus sit a Missionariis cum pronuntiatione nominis Vicarii Apostolici, aut Praefecti, aut Praelati ?

V. Quum in Feriis Quadragesimae, Quatuor Temporum, II. Rogationum et in Vigiliis, in quibus occurrat Officium ritus duplicis maioris seu minoris aut semiduplicis, Missae privatae dici possint, ex dispositione novarum Rubricarum, vel de Festo cum commemoratione Feriae aut Vigiliae, vel de Feria aut Vigilia cum commemoratione Festi ; quaeritur an in hac Missa de Feria aut Vigilia adiungenda sit tertia Oratio pro diversitate temporis ?

VI. Quae praefatio usurpanda est in Duplicibus II. classis Praefationem propriam non habentibus, quando occurrunt in Dominica minori et simul in die Octava alicuius Festi Domini, aut B. M. V., aut Apostolorum ?

VII. Quando Officium Dominicae II. post Epiphaniam, ad normam Decreti diei 2 Martii currentis anni, anticipatur die decima sexta Ianuarii, occurrente etiam die infra aliquam Octavam, huius Octavae Commemoratio ferine debet in Officio eiusdem Dominicae anticipatae ?

VIII. Et quatenus affirmative, adiungine debet Suffragium ad Laudes et Preces ad Primam ?

IX. Quando Officium alicuius Dominicae infra hebdomadam anticipatur, Psalmi feriales in Laudibus primo vel secundo loco sumendi sunt ?

X. Utrum suppressa censenda sit facultas adiiciendi in Missa orationes usque ad septem in simplicibus et ferialibus per novas Rubricas, quae collectas excludunt quando habetur quarta oratio ?

XI. Utrum Collectae, si fuerint duae, ambae adiiciendae sint post tertiam praescriptam orationem ; an una tantum ?

XII. Quum quibusdam Dioecisibus, necnon Ordinibus aut Congregationibus Religiosis, Indultum a S. Sede concessum fuerit quaedam Officia particularia semel aut pluries in mense aut in hebdomada, imo etiam singulis anni diebus, exceptis solemnioribus, celebrandi ; ex. gr. SSñi Sacramenti, SSñi Cordis Iesu, B. M. V. Immaculatae, etc., sive sub ritu semiduplici, sive etiam sub ritu duplici minori aut maiori, ita ut videantur non officia Votiva, sed quasi Festiva ; quaeritur an ista Officia comprehendantur inter Officia Votiva quae novis Rubricis (tit. viii., num. 1) suppressa declarantur ?



Et Sacra Rituum Congregatio, ad relationem infrascripti Secretarii, audita sententia Commissionis Liturgicae, reque sedulo perpensa, rescribendum censuit :

Ad I. Nihil in casu fiat de Titulo.

Ad II. Negative.

Ad III. Episcopos Titulares non teneri.

Ad IV. Negative, nisi eadem nomina in Canone Missae, ex Apostolico Indulto, pronuntientur.

Ad V. Si Officium ritus duplicis recitatum fuerit, negative ; si vero ritus semiduplicis, affirmative.

Ad VI. Adhibeatur Praefatio quae dicenda foret in Missa de Dominica.

Ad VII. Affirmative.

Ad VIII. Negative.

Ad IX. Affirmative ad primam partem, negative ad secundam.

Ad X. Negative.

Ad XI. Affirmative ad primam partem, negative ad secundam.

Ad XII. Affirmative.

Atque ita rescripsit, declaravit et servari mandavit. Die 22 Martii 1912.

FR. S. CARD. MARTINELLI, *Praefectus*.

✠ PETRUS LA FONTAINE, *Episc. Charystien., Secretarius*.

L. ✠ S.

#### VARIOUS DOUBTS

#### PLURIUM DIOECESUM

#### DUBIA VARIA

A nonnullis Rm̄is locorum Ordinariis insequentia dubia Sacrae Rituum Congregationi, pro opportuna solutione, proposita fuerunt ; nimirum :

I. Festa Beatae Mariae Virginis aut Sanctorum, Dominicis affixa, et a locorum Ordinariis in perpetuum simplicata, impediuntne recitationem Suffragii ad Laudes et Vesperas, Precum ad Primam et Completorium, Symboli Athanasiani ad Primam et tertiae Orationis in Missa ?

II. Quando in Dominica occurrit Festum Beatae Mariae Virginis perpetuo a locorum Ordinariis simplicatum, conclusiones Hymnorum et Versus Responsorii brevis ad Primam eruntne de ipsa Beata Virgine, ad normam Decreti in una *Romana et aliarum*, diei 30 Decembris 1911 ad I<sup>um</sup> ?

III. Si Festum duplex secundae classis in Dominicam

incidat, et commemorationem sit Festum aliquod simplicatum, quod per se habeat Praefationem propriam in Missa, vel occurrat infra Octavam aliquam similiter Praefationem propriam habentem, legendane est Praefatio de Trinitate, vel potius Praefatio propria Festi simplicati, aut Octavae?

IV. Quum ex novis Rubricis Primae Vesperae de Dominica infra Octavam Epiphaniae, nisi Epiphania ipsa venerit in Sabbato, integrae amodo de ipsa Dominica dicendae sint, ultimus harum Vesperarum Psalmus eritne *Laudate Dominum*, ut in primis Vesperis, vel potius *In exitu Israël*, ut in secundis Vesperis?

Sacra porro Rituum Congregatio, ad relationem subscripti Secretarii, reque accurato examine perpensa, rescribendum censuit:

Ad I. Affirmative in omnibus.

Ad II. Affirmative.

Ad III. Affirmative ad primam partem, negative ad secundam.

Ad IV. Affirmative ad primam partem, negative ad secundam.

Atque ita rescripsit, die 9 Februarii 1912.

FR. S. CARD. MARTINELLI, *Praefectus*.

✠ PETRUS LA FONTAINE, *Episc. Charystien., Secretarius*.

L. ✠ S.

#### NEW BISHOPRICS IN AMERICA—THE BISHOP OF TARBES AND LOURDES (NEW TITLE)

SACRA CONGREGATIO CONSISTORIALIS

ERECTIONIS DIOECESUM

KEARNEYENSIS

Ss̃mus Dominus Noster Pius PP. X. decreto huius Sacrae Consistorialis Congregationis diei 8 martii 1912 peramplum dioecesis Omahensis territorium bifariam divisit, in eusque occidentali parte novam et distinctam dioecesim, Kearneyensem ab urbe vulgo *Kearney* denominandam, erexit.

Limites novae Kearneyensis dioecesis hi sunt, idest *ad orientem* fines orientales comitatum civilium *Keyapaha, Rock, Garfield, Valley, Sherman* et *Buffalo*; *ad meridiem* vero flumen *Platte* ac dein confinia civilia inter Status *Nebraska* et *Colorado*; *ad occidentem* et *ad septentrionem* denique ipse confinia Status *Nebraska*; ita ut nova haec dioecesis comprehendat viginti sex comitatus civiles integros, videlicet *Keyapaha, Rock, Garfield, Valley,*

*Sherman, Buffalo, Cheyenne, Kimball, Banner, Scotts Bluffs, Sioux, Dawes, Box Butte, Morrill, Garden, Sheridan, Cherry Grant, Hooker, Thomas, McPherson, Logan, Custer, Blaine, Loup et Brown*; itemque partem comitatum civilium *Dawson, Lincoln, Keith ac Deuel* nuncupatorum.

Insuper praedictam dioecesim suffraganeam constituit metropolitanae ecclesiae Dubuquensis.

#### CORPORIS CHRISTI

Item eadem Sanctitas Sua decreto eiusdem Sacrae Congregationis diei 23 martii 1912 Brownsvillensem apostolicum vicariatum iisdem ut antea territorii finibus circumstriptum, in dioecesim erexit ac instituit, quam a civitate ubi sedis episcopalis statuta est *Corpus Christi* denominavit, eamque suffraganeam metropolitanae ecclesiae Novae Aureliae constituit.

#### WAYNE-CASTRENSIS

##### DECLARATIONIS CIRCA DIOECESIS FINES

Pariter decreto eiusdem Sacrae Congregationis diei 29 martii 1912 Ssmus Dominus Noster declarare dignatus est Wayne-Castrensem dioecesim totum complecti septentrionale territorium civilis Status *Indiana*, ita ut ipsa iisdem quoquoersus circumscribatur finibus quibus antea dioecesis Vincennopolitana, modo autem Indianapolitana nuncupata, a qua tamen ad meridiem discriminatur per australia confinia comitatum civilium vulgo *Warren, Fountain, Montgomery, Boone, Hamilton, Madison, Delaware et Randolph*, quos et comprehendit.

#### TARBIENSIS

##### ADIECTIONIS TITULI EPISCOPALIS LAPURDENSIS (LOURDES)

Ssmus Dominus Noster Pius PP. X. decreto huius Sacrae Consistorialis Congregationis diei 20 aprilis 1912 statuit ut in posterum ecclesia cathedralis Tarbiensis eiusque episcopus novo Lapurdensi titulo, ab oppido *Lourdes*, honoris causa honestarentur, ita ut tum dioecesis tum episcopus Tarbiensis ac Lapurdensis nuncupari possint et valeant. Cum vero novus hic titulus Lapurdensis dioecesi Tarbiensi nonnisi ad honorem adiectus sit, Sanctitas Sua mandavit, ut quod attinet ad praesentem statum sedis et residentiae episcopalis itemque curiae et capituli cathedralis nulla fieret immutatio.



## NOTICES OF BOOKS

SUMMULA PHILOSOPHIAE SCHOLASTICAE. Vol. III. Pars Altera : ETHICA. Editio altera, aucta, emendata, iudicibus locupletata. By J. S. Hickey, O.Cist. Dublin : Browne & Nolan, M. H. Gill & Son ; New York : Benziger ; St. Louis : Herder. Pp. vi + 270.

WITH this concluding half-volume on *Ethics*, Father Hickey's *Summula* has passed into a second edition. The whole work deserves the widespread popularity which it has already won for itself not merely at home but in the Continental schools and beyond the Atlantic. The present portion is characterized by the same excellences as its predecessors : simplicity in style, brevity and clearness in exposition, and copious, well-chosen quotations from standard Catholic works in English, set forth in footnotes to illustrate and expand the teaching embodied in the text. The author appears to have read such works extensively and judiciously, and to have spared no pains in providing the students of our Catholic seminaries and colleges with a useful, readable, and up-to-date text-book.

P.

THE SCIENCE OF LOGIC : An Inquiry into the principles of Accurate Thought and Scientific Method. By P. Coffey, Ph.D. (Louvain), Professor of Logic and Metaphysics, Maynooth College, Ireland. London : Longmans, Green & Co. Two vols. 1912.

DR. COFFEY has already earned the gratitude of students by his success in impressing on the English-speaking world the rise and spread of the Catholic revival in Philosophy. It was his translations of the propaganda literature, issuing from the Institut Supérieur de Philosophie, founded at the University of Louvain by Leo XIII., that brought home to the general reader how much was really being done to adapt Scholasticism to modern needs. These two volumes on Logic initiate a distinct, and withal a complementary, policy : embodying as they do an able attempt to deal fully from the standpoint of Aristotelianism with

the logical problems raised by Empiricism and Hegelianism. Dr. Coffey states his purpose clearly in the Preface : ' Philosophers who believe in the superiority of the Scholastic system, as compared with other systems now actually in vogue, recognize the need of applying the traditional principles of this system to modern conditions and problems. Many of the latter are new, at least in form ; and much light has been thrown upon them by the intellectual labour of non-scholastic writers. Such useful achievements the modern scholastic will gratefully recognize and gladly welcome ; while at the same time he remains true to the truth that is in Scholasticism (rejecting whatever he finds to be indefensible in it), and combats the teachings opposed to it. *Vetera novis augere et perficere* is a guiding principle which he obeys in all his investigations. This attitude will seek expression in the course of the present treatise. The writer is quite unconscious of having said or intended anything new or original. But neither has he intended to make a mere compilation. It has been his ambition to assimilate and analyse what he has learned from others ; and bearing in mind the requirements of beginners, to set forth the results of his own labours in the manner and order he considers most helpful to those for whom he has written.'

It is inevitable that such extensive treatment of Logic will appear to the uninitiated so much threshing of old straw. Scholars cannot, however, submit to the standards of *dilettanti* : thoroughness and accuracy being ' of the noble family of truth.' To none of the great logicians in ancient or medieval times was Logic that paltry thing it seems to many : a collection of technical rules. But in the days when Aristotle's teaching was the accepted basis of philosophical analysis, even a thorough sifting of logical problems could be fitted into narrow compass. Those days will never return : for good or evil, Aristotle has encountered almost as many rivals as successors. And a bare restatement of his views is to-day but one long *petitio principii*. Controversy must be faced at every stage by those who uphold his principles : controversy with opponents whom St. Thomas never knew. Nor does that half-truth that there is nothing new in modern philosophy lighten the labours of contemporary scholastics. However comforting such a plea may be to those who know nothing of philosophy, it is painfully recognized as the worst of untruths by those who must know something of philosophy. Hence the changed character of contemporary treatises on

Logic : hence, too, the mistake of looking on logical analysis to be of little importance and of less interest. Dr. Coffey vindicates the true claims of Logic in an eloquent paragraph :

‘For those who desire to become instructors, educators, teachers, pressmen, statesmen ; for those who would lead, or influence for good, the thought and conduct of their fellowmen in any department of life and action ; in a word, for all who aspire to a liberal education : a sound training in the fundamental truths of philosophy—speculative, ethical, and religious—is usually indispensable. And this presupposes such a formation of mind as can be secured only by the study of logic : not indeed by the arid formalisms which sometimes pass for logic, but of the suggestive and illuminating truths which may be gathered from a serious analysis of the thinking processes of the human mind. Such analysis is bound to lead the student into the very midst of purely philosophical inquiries : and at the same time to equip him for carrying these on successfully.’

The mere enumeration of leading questions is all that is possible within the limits of a review to show our readers the thoroughness of Dr. Coffey’s treatment. The Introduction discusses the relations of Mind to Truth ; and of Logic to such kindred sciences as Metaphysics, Psychology, Rhetoric, Grammar (1-39). Part I.—Concepts and Terms (39-154) : Logical Properties and Divisions of Concepts and Terms ; The Predicables ; Definition ; Division and Classification ; The Categories or Prædicamenta. Part II.—Judgments and Propositions (154-292) : Nature of Judgments and Propositions ; Kinds of Judgments and Propositions ; Quantity and Quality of Categorical Judgments and Propositions ; Extension and Intension in Categorical Judgments and Propositions ; Opposition of Categorical Judgments and Propositions ; Educutions from Categorical Judgments and Propositions ; Existential Import of Categorical Judgments and Propositions ; Conditional and Hypothetical Judgments and Propositions ; Disjunctive and Alternative Judgments and Propositions. Part III.—Reasoning and Syllogisms (292-429) : Nature, Structure and Axioms of the Pure Syllogism ; General Rules or Canons of the Syllogisms ; Figures and Moods of the Syllogism ; The Doctrine of Reduction, Analysis of the Figures ; Hypothetical and Disjunctive Syllogisms ; Abridged and Conjoined Syllogisms ; Nature and Characteristics of Inference. The second volume begins with Part IV.—Method or the Applica-



tion of Logical Processes to the Certain Attainment of Truth (1-210): General Outline of Method; Induction in its Various Senses, Introductory and Historical Notions; Presuppositions of Induction, Concepts of 'Reason' and 'Cause'; Presuppositions of Induction, Uniformity of Nature; Hypothesis, its Nature, Functions and Sources; Method of Discovering Causal Laws by Analysis of Facts, Observation, and Experiment. Part V.—The Attainment of Science and Certitude (210-338): Science and Demonstration; Opinion and Probability; Error and Fallacies.

It might seem at first sight that too much has been attempted in these volumes: that we are being invited to one of those feasts which is worse than a famine. But a cursory glance through Dr. Coffey's pages immediately dispels such fears. By skilful use of distinct printing types, he has succeeded in marking off clearly the more difficult from the more accessible problems: evidently with a view to the needs both of Honours and of Pass students. It must suffice to give a single instance as typical of the masterly handling of the details of the problems: that of Induction, which is treated in the volume that is likely to appeal most to general readers, the second.

Dr. Coffey begins by contesting the statement commonly found in English text-books of Logic that the Scholastics knew of no inductive process save Perfect and Imperfect Induction. By pertinent references to the texts of St. Thomas and of Duns Scotus, he submits that they were aware of the principles underlying Physical or Scientific Induction. Why, then, it will be asked, did the Schoolmen not anticipate the physical discoveries of the moderns? Chiefly for two reasons, answers Dr. Coffey: their absorption in deductive study, and their lack of such means of investigation as telescopes, microscopes, batteries, chemical re-agents, etc. This appeal to history, which vindicates the Schoolmen, suffices to explode the popular fallacy regarding Lord Bacon. His much-extolled method of induction was never employed by scientists, never led to discoveries: his reputation as an inductive philosopher is an idol of the market-place. The great names regarding modern theories of Induction are Newton, Whewell, J. S. Mill, Jevons. And in dealing with their views, the question of the Uniformity of Nature comes to the front. Why do we believe the present pregnant with the future? what justifies us in deciphering the past out of the present? Empiricism has no reply: its inferences backwards or forwards are,

as Bain admits, so many leaps in the dark. Hegelianism has a reply, but an unsatisfactory one : Nature is uniform because reality is an unalterable set of relations—which implies that reality consists solely in relations, and exists only in and for mind. Scholasticism furnishes, Dr. Coffey thinks, a better reply than either of its rivals : Nature is uniform because the physical universe is the work of an all-wise Creator and Ruler.

Such is Dr. Coffey's method of exposition : opponents are neither quoted secondhand, nor treated with silent contempt : difficulties are neither shirked, nor understated. We congratulate the author very sincerely. It would be too little to say that his work compares favourably with former scholastic efforts : in the magnitude of his task he has had no predecessor. Nor in the success of his achievement is his work likely to be readily superseded : volumes so copiously documented and so carefully reasoned are the fruit of years of reading and of thinking. Some years ago a friendly reviewer, referring to the author of the present volumes, wrote : ' One of the motives that led the distinguished young Irish professor to translate this work [Dr. De Wulf's *Introduction à la Philosophie Néo-scholastique*] was to prepare the way for translations or adaptations of the Louvain *Cours de Philosophie*. We hope that the eager reception of the present work will encourage him to go on along the lines he seems to have planned.' Dr. Coffey has done much better. Those who can appreciate the worth of his *Science of Logic* will look forward eagerly to new volumes on other parts of Philosophy : rightly refusing to be content either with translations or adaptations of the Louvain *Cours de Philosophie*.

J. O'N.

THE CARLOVIAN. May, 1912. Dublin : John Shuley & Co.

WE welcome this year again the *Carlovian*, or Annual Review of the students of Carlow College. The production is highly creditable to the Editor and his collaborators. There is a high literary tone about it which makes it very attractive. We were particularly struck with the paper entitled ' A Handful of Rue.' It reminds us of Francis Thompson in its breadth of view, in its sympathy with all that is great and good, and in its undercurrent of sadness. Indeed in this case the sadness makes its way to

the surface from time to time. It seems to be fed by Leopardi, who held that suffering alone of all things is real and intelligible.

‘Arcano é tutto  
Fuor-che il nostro dolor.

It is, nevertheless, a little obtrusive here, and a little *maladive*, but it is sufficiently personal to lend an additional attraction to the charm of the paper.

Father P. J. Doyle's ‘gossip’ on Lourdes is quite entertaining. Perhaps if he had not laid so much stress on the fact that he went there not in the guise of a pilgrim, but merely as a tourist and an observer, it would be none the less so.

We notice that the members of the Carlow College ‘Literary and Debating Society’ discussed during the year whether ‘The action of the Irish Bishops in receiving King George and Queen Mary at Maynooth was discreet and justifiable.’ It is a wonder the Carlow Society took such a lenient view of the Bishops’ action. We are sure they exercised great restraint over their feelings. This is an age in which wisdom seems to have abandoned the heads of the old and to have taken refuge entirely in those that are buffeted by the storms of youth. Whether the debate itself was discreet and justifiable may be questioned; but at least it was carried on in a good spirit.

Amongst the papers read was one by Mr. Kevin Higgins, on ‘Nothing.’ In some respects we think that the author scarcely did himself justice.

But, altogether, the *Carlovian* is bright, breezy, and well produced. It has the freshness of an atmosphere of Spring. May it prosper and grow with the passing years.

J. F. H.

LEHRBUCH DER DOGMATIK von Dr. Bernhard Bartmann,  
Professor der Theologie in Paderborn. Zweite, vermehrte und verbesserte Auflage. Herder, Freiburg, London. 1911.

THIS work, the author tells us in the Preface, was first printed for private circulation among his pupils in Paderborn. Therefore, though it now appears for the first time on a publisher's list, it is described as a second edition. In a compass of about



850 pages Dr. Bartmann has succeeded in giving an excellent statement of Dogmatic Theology in very readable German. His method is that of St. Thomas, and it is interesting to note in this work how a genuine scholasticism gains, instead of losing, by being clothed in the vigorous language of such a modern intellectual world as that of Germany. The strength of the work seems to me to lie in its effort to come to terms with the modern religious mind. The very latest problems of religious and dogmatic controversy are investigated—very briefly, it is true, but very suggestively. Each chapter is preceded by a bibliography which is meant to guide the student to deeper study. The thoroughness of all the bibliographical lists which I have been able to examine convinces me that Dr. Bartmann's theological sympathies are wide indeed, and that no important phase of dogmatic study in any period has escaped his notice. He is fully conscious of the vital importance to the theologian of historical and Scriptural study. Difficulties against the Church's teaching are drawn nowadays chiefly from the work of evolutionist historians and naturalistic Bible critics. Dr. Bartmann has, therefore, developed the Scriptural arguments for his theses with great care, and has faced vigorously every serious problem in the theology of the early Church. For the young student of theology, and for the Catholic layman who is eager to understand the Catholic position in face of modern thought, this book will be invaluable. I know of no other systematic work which treats so deftly the difficulties of Modernism.

Dr. Bartmann's work is less formal and far briefer than the well-known handbook of Pohle. It is, of course, quite different in aim and method from Heinrich-Gutberlet and Scheeben; but the theologian who has studied Pohle and Scheeben and Heinrich will find that Dr. Bartmann establishes a claim to an independent position beside all his German predecessors.

Dr. Bartmann has done a very real service to Catholicism by making his thoroughly up-to-date and reasonably exhaustive manual of scientific theology accessible to readers who are not familiar with Latin Scholasticism. His work sustains well the high traditions of the theological school in Paderborn, and the firm of Herder has done wisely in including the new *Handbuch* in its famous 'Theologische Bibliothek.'

P. B.

PRACTICAL HANDBOOK FOR THE STUDY OF THE BIBLE AND OF BIBLICAL LITERATURE. By Dr. Michael Seisenberger, Royal Lyceum, Freising. Translated from the Sixth German edition by A. M. Buchanan, M.A., and edited by the Rev. Thomas J. Gerard. New York : Joseph F. Wagner. 1911.

IN this book of 500 pages the following subjects are discussed : Geography of Palestine ; Biblical Archæology (including the entire political and religious history of Israel, the development and details of Hebrew ritual, the organization of the Hebrew priesthood, and the sacred calendar of Israel) ; General Introduction to the Old and New Testaments (origin of Scripture, inspiration, canon, language, text, translations) ; Special Introduction to all the books of both Testaments ; the laws of Scriptural interpretation ; bibliography of modern Biblical science. It is obvious that any one of these sections might have claimed for itself the 500 pages, and it would be unfair to expect a detailed treatment of any department of Biblical study in such an all-inclusive work. The editors tell us that the Handbook is meant chiefly for the hard-worked parochial clergy, and for the seminary student who is just beginning work in Scripture. There is no other Catholic work in English which goes over the same ground, and the work contains such an enormous mass of information, in the main quite accurate and up-to-date, that it will certainly be a great help to busy missionary priests, to young students, and to the Catholic laity. The author has read widely, and there are few critical problems which he does not discuss. Every discussion is, however, sketchy, and one cannot help thinking as one reads that it would have been better to have omitted certain problems altogether than to have merely raised them and passed on. The translation is well done. The Hebrew words which occur occasionally in the text and notes show some disconcerting misprints. The editor finds the chief merit of the book in its bibliography, and is confident that the inquiring reader will find in the many specialist works referred to by the author abundant material for a thoroughgoing study of every topic touched on in the Handbook. This confidence we cannot share. On page 475 ff. there is a list of the works to which reference is made throughout the Handbook. The list, however, is unsatisfactory. It is by no means an exhaustive list even of all the important literature referred to in the text of Dr. Seisenberger's

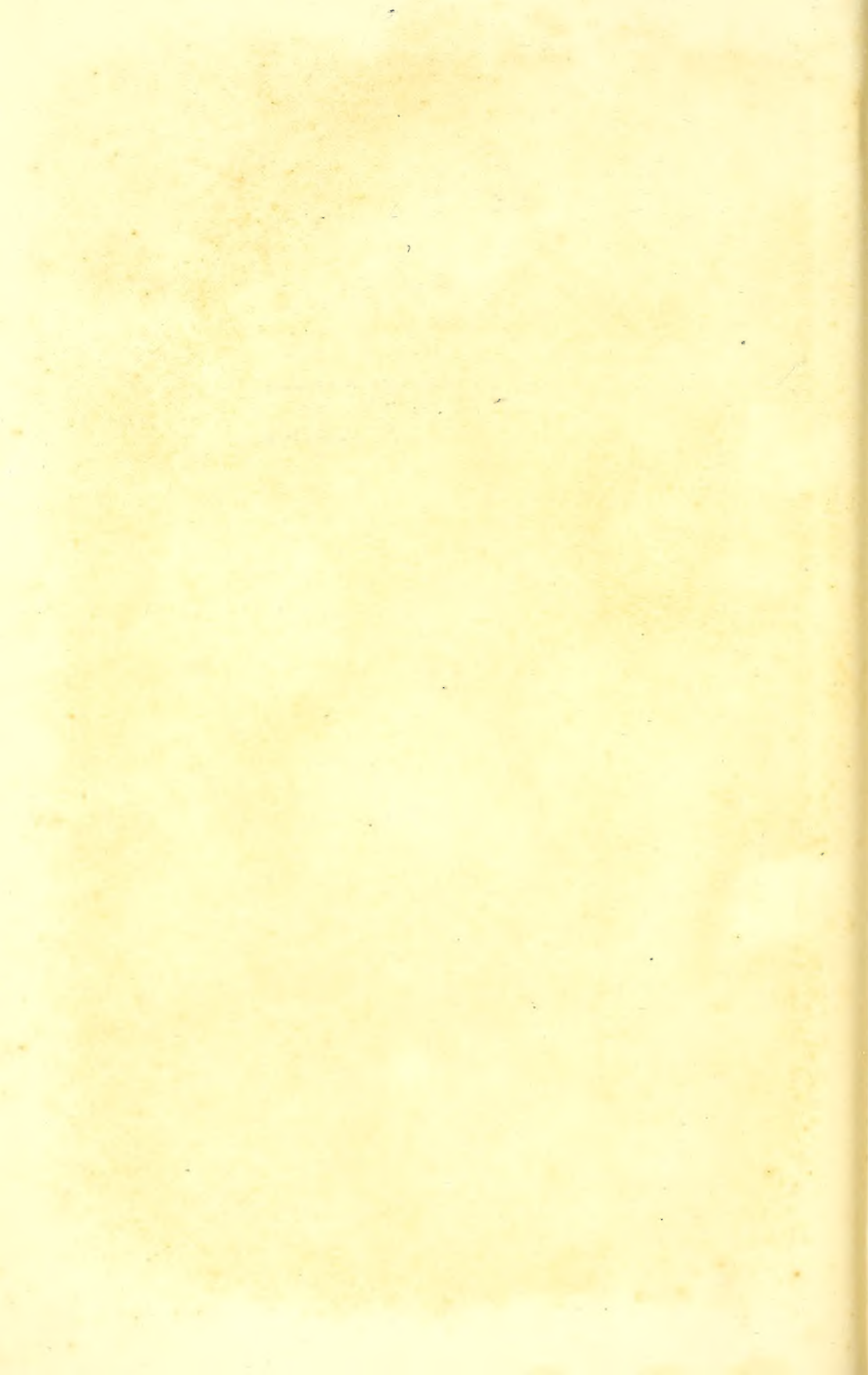
work. Such important writers as Felten, Hehn, and Vigouroux do not appear in the list, though they are quoted in the Handbook. Again, we miss in the list, and in the work generally, all reference to such important Catholic writers as Lagrange, Lepin, Van Hoonacker, Gigot, Maas, Peters. Valuable work by such well-known Protestant writers as Gunkel, Baentsch, Bousset, Kittel, and many others is equally ignored. The translators, one would think, ought to have attempted to include in the bibliography all the valuable Catholic and non-Catholic scientific work on the Bible up to the beginning of 1911. But the bibliography does not come within five years of that date.

Though the Handbook shares in the defects to which all handbooks are liable, we welcome it cordially in its English dress, and believe that it will help to arouse interest in Biblical studies among Catholic readers of all classes.

P. B.







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